

1

TEXAS HOUSE OF REPRESENTATIVES

COMMITTEE ON ELECTIONS

FEBRUARY 28, 2007

(EXCERPT OF HEARING REGARDING

HB 1290, HB 266, HB101, HB 218 AND HB 626)

Transcribed by Jean Thomas Fraunhofer, CSR

April 30, 2012



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1 (TIMER: 1:18:28 to 4:36:31)

2 CHAIRMAN BERMAN: The chair calls Russ
3 Duerstine. Russ, would you state your name and who
4 you're representing? And you're showing as being
5 against House Bill 265.

6 MR. DUERSTINE: Thank you, Mr. Chairman.
7 Russ Duerstine, Tom Green County Republican Party
8 chairman located in San Angelo, Texas. And I do rise to
9 speak against the committee substitute. I -- My primary
10 concern is voter fraud. It is the ability to move large
11 amounts or even small amounts of voters in a short
12 period of time. I do believe the ability for somebody
13 to vote, even if they're living in the YMCA, is
14 something they should be able to do. And because they
15 can do that, it would be very easy to move a significant
16 number of people for one night to the YMCA, register to
17 votes that day and effect an election.

18 I have three county districts or three
19 precincts that are very Republican in county. I have
20 one that's really close, 50/50. Conceivably, I could
21 convince a handful of people to move to that one
22 precinct where it's really close between Democrats and
23 Republicans, get them to register at the YMCA that's in
24 that precinct that's close, and they're all going to
25 vote for people on the ballot they like anyways, so we



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1 could affect a commissioner's race in that one precinct.

2 I would never do that -- never consider
3 doing that, but I can imagine it being done at a county
4 level. I can imagine it being done at a congressional
5 district, and God forbid we have state races where
6 people are imported from other states to affect who
7 Texans pick as their governor, lieutenant governor,
8 senator, what-have-you. So I'm very concerned about the
9 ability to affect an outcome by having people to
10 register to vote in a temporary living facility such as
11 the YMCA.

12 CHAIRMAN BERMAN: Members, any questions?
13 Mr. England?

14 REPRESENTATIVE ENGLAND: Are you aware
15 that if they lived at the YMCA, they'd have to have a
16 utility bill addressed to the person dated not earlier
17 than the 30th day before the person seeks to vote? Is
18 that right, Mr. Anchia?

19 REPRESENTATIVE ANCHIA: We would deny a
20 person living at the YMCA who does not have a utility
21 bill in their home.

22 REPRESENTATIVE ENGLAND: I sure hope so.
23 I sure hope so according to -- Again Mr. Anchia, can you
24 help me there? Would I want to deny somebody --

25 CHAIRMAN BERMAN: Mr. Anchia, if you could



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1 answer the question.

2 REPRESENTATIVE ANCHIA: Thank you,
3 Mr. Chair. The bill reads you as follows. You either
4 have to present a driver's license to prove you're -- a
5 valid driver's license to prove your residency at a
6 particular precinct or in the absence of that, you could
7 provide a -- a utility bill that had your address on it
8 that was valid for an -- and I'll read the language
9 specifically for you, but it would be utility bill,
10 address of the person, dated not earlier than 30 days
11 before the date the person seeks to vote. So not
12 earlier is the key language there. And a Texas driver's
13 license or state Voter ID that was out of date
14 potentially that, for example, at your old address. So
15 you'd have the utility bill from your current address,
16 the driver's license with the photo ID or the state ID
17 at the old address or a passport or a -- a US military
18 identification card.

19 So the key is to determine the address,
20 your current address and that could be done through a
21 valid driver's license, a valid state ID or a utility
22 bill plus the other form of identification. So, I mean,
23 the scenario -- Well, I'll speak in my closing to -- to
24 the -- to some of the concerns about voters coming in
25 and voting on or being imported from other states.



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1 MS. EDELMAN: It just seems to me
2 relatively easy to establish residence and/or you have
3 to deny people who are legitimately in that situation
4 the ability to vote and neither seemed probable to me.

5 CHAIRMAN BERMAN: Members, any other
6 questions? Russ, thank you for your testimony.

7 REPRESENTATIVE ENGLAND: Thank you,
8 Mr. Chairman.

9 CHAIRMAN BERMAN: The chair calls Tina
10 Benkiser?

11 MS. BENKISER: Thank you, Mr. Chairman.
12 My name is Tina Benkiser on -- here on behalf of myself
13 as well as the Republican party of Texas where I serve
14 in a voluntary capacity as its chairman. I think
15 there's one point that needs to be made in considering
16 this particular bill. Under the provisions of HAVA, a
17 voter registration must be checked against the Social
18 Security database or the DPA driver's license database.
19 At this time no county has the ability to do that check.
20 Only the Secretary of State does, so -- so no county
21 could voluntarily choose to participate unless it has an
22 expensive contract with DPS or the Social Security
23 Administration.

24 CHAIRMAN BERMAN: Members, any questions?
25 Mr. Anchia?



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1 REPRESENTATIVE ANCHIA: Yes, ma'am.
2 Thanks, Ms. Benkiser. If the Secretary of State gave a
3 county the -- the ability or contracted with the
4 county -- gave the county the ability to access its --
5 its files to verify the very information that you
6 suggested, do you believe that that would be HAVA
7 compliant?

8 MS. BENKISER: I'm not an expert in HAVA.
9 I understand -- What I would say is I'm sure the
10 Secretary of State would be able to give you that --
11 that information. I think we also had an expert -- a
12 former Federal Elections Commission expert that would be
13 better able to answer that question than I would.

14 REPRESENTATIVE ANCHIA: And you are aware
15 that the bill provides the Secretary of State the
16 opportunity to create rules to implement the temporary
17 pilot program, and those rules certainly could include
18 access to the Secretary of State's database to check the
19 very information that you are concerned about, correct?

20 MS. BENKISER: Again, I'm simply saying
21 that under the provisions, currently there is no county
22 that can do that, and, in fact, if you look at the
23 counties that are already on line with the Secretary of
24 State's office, there are only 126 out of 254 and none
25 of those are large counties. There's probably pretty



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1 good reason for that. We're still in the developmental
2 stage, so I think we really shouldn't get the cart
3 before the horse in this.

4 REPRESENTATIVE ANCHIA: And you realize
5 that this is a voluntary program so that --

6 MS. BENKISER: That's --

7 REPRESENTATIVE ANCHIA: -- a county
8 that -- that --

9 MS. BENKISER: I realize that.

10 REPRESENTATIVE ANCHIA: -- that would be
11 interested in participating would have to have the
12 ability to implement the program?

13 MS. BENKISER: Right. And, currently,
14 they could not do that unless they had an expensive
15 contract. I know there's been some testimony that there
16 was no fiscal note. I think there's probably been
17 testimony just recently that there was indeed a very
18 huge fiscal note. I'm simply saying this is one more
19 element of that. Thank you.

20 REPRESENTATIVE ANCHIA: Thank you,
21 Ms. Benkiser.

22 CHAIRMAN BERMAN: Members, any other
23 questions?

24 UNIDENTIFIED SPEAKER: Question for you.
25 Any concern with voter fraud?



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1 MS. BENKISER: I'm always --

2 UNIDENTIFIED SPEAKER: Just curious.

3 MS. BENKISER: -- concerned about voter
4 fraud. Unfortunately, it is still alive and well in
5 Texas, but, again, I think the point here -- and I will
6 be addressing some things later, but certainly with any
7 of these issues, there is -- and I never cease to be
8 amazed at the creativity of people out there who want to
9 keep every -- every qualified citizen from having their
10 one vote and having their one vote counted. Yes, there
11 are always voter fraud concerns.

12 UNIDENTIFIED SPEAKER: Any concern that
13 this particular bill would increase voter fraud cases?

14 MS. BENKISER: I have not sat down and
15 given that a great deal of thought. I will tell you I
16 served as election judge for many years, and every time
17 there's a system devised to minimize, there are people
18 who found ways around it. I've seen many, many things,
19 and I certainly can see that this would provide that
20 opportunity as well.

21 UNIDENTIFIED SPEAKER: Any idea how many
22 voter fraud cases were prosecuted in Texas last year?

23 MS. BENKISER: I know that the Secretary
24 of State forwarded about 50 cases of voter fraud to the
25 Attorney General for action since 2004. That certainly



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1 does not include any and all cases that may have been
2 sent to district attorneys across the state. Of course,
3 the Attorney General only has jurisdiction in
4 multi-county race races. So I don't know that
5 particular number, if that -- if that answers your
6 question.

7 UNIDENTIFIED SPEAKER: No idea how many
8 cases outside of the AG's office?

9 MS. BENKISER: I know lots of specific
10 instances, but I do not know of a solid number outside
11 of the AG's office. No, sir, I don't.

12 UNIDENTIFIED SPEAKER: Thank you.

13 CHAIRMAN BERMAN: Ms. Benkiser, thank you.
14 Mr. Burnam?

15 REPRESENTATIVE BURNAM: I just wanted a
16 clarification on the fiscal note. I think what you were
17 talking about was the fiscal note on the original bill
18 which would have -- because it wasn't voluntary had an
19 extension. This is strictly voluntary, and so it will
20 be a fiscal note for the individual county which means
21 whatever election administrator is in charge, they'd
22 have to go justify it to their county judge or the
23 appropriate administrator; is that right?

24 MS. BENKISER: Well, my primary point here
25 was that under the current provisions of HAVA and given



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1 that those voter registrations have to be checked
2 against either the Social Security database or the DPS
3 driver's license base, that no county has the ability to
4 do that, and so, in fact, any of those counties who
5 voluntarily chose to participate would in fact have to
6 have a contract with DPS or with the Social Security
7 Administration or something of that nature in order to
8 even do what you're -- you're giving them the ability to
9 voluntarily do.

10 REPRESENTATIVE BURNAM: So you're really
11 kind of putting people on due notice. If you do do
12 this, it's going to cost you more than you might be
13 thinking a county.

14 MS. BENKISER: I'll just say you guys have
15 5,000 bills or so that will probably be filed before the
16 end of the session. There are numerous things that are
17 truly important for the State to do. I'm simply up here
18 to point out that in this particular bill, it's really
19 sort of nonsensical, if you will.

20 REPRESENTATIVE BURNAM: So in answer to my
21 question, my question to you was about your giving
22 notice that the fiscal note to a county might be higher
23 than what they were thinking?

24 MS. BENKISER: Absolutely. That is one
25 notice, but they cannot voluntarily participate unless



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1 they take an additional step. They do not in their own
2 right as it stands under this bill have the ability to
3 do what you're giving them the opportunity to do.

4 REPRESENTATIVE BURNAM: I appreciate your
5 warning to my election administrator. Thank you.

6 MS. BENKISER: Thank you.

7 CHAIRMAN BERMAN: Thank you, Ms. Benkiser.
8 Chair calls Mario Champion. Mr. Champion?

9 THE CLERK: He had to leave.

10 CHAIRMAN BERMAN: Okay. We show
11 Mr. Champion as being for the bill. Are there any other
12 witnesses that would like to testify for, on or against
13 the bill? Do you have a registration form, sir? What
14 is your name, sir?

15 MR. BORDEN: Bill Borden.

16 CHAIRMAN BERMAN: Borden, b-O-R-D-E-N.
17 Let me look through this here. Mr. Borden, I'm going to
18 ask you to come up and testify, and we'll complete
19 another form for you just as soon as you're finished.

20 MR. BORDEN: And I'll certainly fill it
21 out first.

22 CHAIRMAN BERMAN: Okay. Mr. Borden, just
23 one second, please. You have to sign the affirmation
24 form first before you testify.

25 MR. BORDEN: I have to sign that. Okay.



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1 Sure. Be happy to.

2 CHAIRMAN BERMAN: The affirmation form is
3 your --

4 MR. BORDEN: Signed it on some other
5 bills. I can sign it on this one if you want.

6 CHAIRMAN BERMAN: Yeah. Give him another
7 affirmation form, please.

8 MR. BORDEN: I'm sorry. Okay. Can I fill
9 out the rest of the form address after I testify?

10 CHAIRMAN BERMAN: Well, just sign that in
11 the case -- that you swear that the testimony you are
12 about to give is true and is truth and nothing but the
13 truth. That takes place at a oath -- takes place at a
14 oath. And you're testifying on committee substitute
15 House Bill 265?

16 MR. BORDEN: Right. I'm testifying
17 against.

18 CHAIRMAN BERMAN: All right. Would you
19 state your name, sir, and who you're with?

20 MR. BORDEN: Yes, sir.

21 CHAIRMAN BERMAN: I'm with myself. My
22 name is Bill Borden, B-O-R-D-E-N, like Borden Ice Cream,
23 milk, cottage cheese. Good food. I'm from Harris
24 County. Mr. Anchia asked a question earlier about
25 anybody getting heartburn from some of the things that



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1 have been missing here, and I am, bad.

2 Mr. Chairman, I am the former -- first of
3 all, I've been an election judge, election clerk, member
4 of an early ballot board, member of the signature
5 verification committee, a primary director and chairman
6 of a ballot security committee for the Republican party
7 since the mid-'60s. That's before many of you were
8 born. I've had a little experience with elections, and
9 I question when I hear information from other states
10 about the integrity of the process of same day voter
11 registration. I seriously question the veracity of that
12 information just based on my own experience here in the
13 State of Texas.

14 Let me -- Let me just mention a few things
15 to you about this. First of all, I think this is a
16 slippery slope in the direction of same day voter
17 registration, and we some sub information from a number
18 of voter registrars around the State of Texas that will
19 tell you that the integrity of the voter registration on
20 same day voter registration just absolutely cannot be
21 verified with any significance -- significant accuracy,
22 and I think that the -- that the testimony that's been
23 previous here has indicated some of that.

24 I've got a three page list in 9 and a half
25 point type on war stories of voter fraud that's occurred



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1 in the State of Texas. I want to tell you about one --
2 one to two cases that we've dealt with. We have one
3 case in suburban Harris County area where a person was
4 registered to vote in two counties, and the reason he
5 was is because he lived in two counties. How did he
6 live in two counties? The county line split his house.
7 He made the -- He made the case that -- that when he
8 slept in the bedroom, he was -- one bedroom, he was in
9 one county. When he slept in another bedroom, it was
10 another county. His -- When he got caught, he said,
11 well, I'm a taxpayer in both counties. I ought to be
12 able to vote in both counties. Well, I -- that's hard
13 to argue with except that he was registered to vote
14 twice and voters license, and this is not uncommon.

15 We've caught a number of other people that
16 have been registered to vote twice because the county
17 line split their house in suburban areas of major
18 cities. In -- In the suburban -- one suburban area, we
19 found 300 -- over 300 ballots by mail that were avoided
20 by proxy for advanced Alzheimer's patients at a nursing
21 home. Another case, we found -- at an early location,
22 we found over 200 ballots that were cast by people
23 voting and appearing at polling places in alphabetical
24 order. When they were questioned by the election judge
25 and the election clerk, said, well, the people just



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1 happened to show up that way.

2 Ladies and gentlemen, the problem we have
3 with voting in the State of Texas is that we need to
4 make sure that everybody's right to vote is protected
5 and equally as important. We need to make sure that the
6 integrity of the process is also protected, and right
7 now, we have serious problems with the integrity of the
8 voting process in the State of Texas and that needs to
9 be addressed. At the present time, 18 year olds can
10 register to vote at 17 years and 10 months of age. As a
11 deputy voter registrar, ever since the deputy voter
12 registrar law went into effect, I've registered a number
13 of those people because I've gone to my church that has
14 a school with it, and I've registered some of those
15 students that have just turned or going to be 18 before
16 the next election.

17 We had a -- We had a case in Harris County
18 where we had 113 percent voter turn out folks. That's
19 13 percent more than there are registered voters.
20 The -- the -- The issues that we deal with and I think
21 this committee ought to be dealing with are issues to
22 protect the integrity and the veracity of elections in
23 the State of Texas more so than -- engage more people to
24 participate in the elections because the participation
25 is available. Now, the people who don't participate are



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1 the ones who just don't show up to vote. Thank you,
2 Mr. Chairman.

3 CHAIRMAN BERMAN: Mr. Borden, let me see
4 if there are any questions. Mr. Anchia?

5 REPRESENTATIVE ANCHIA: Thanks for
6 testifying, Mr. Borden. I appreciate your testimony. I
7 appreciate you being here today. I -- You mentioned a
8 couple of things I just want to clarify.

9 MR. BORDEN: Okay.

10 REPRESENTATIVE ANCHIA: You talked
11 about -- talked about substantial information that had
12 been presented about -- from across the state about how
13 same day voter registration creates fraud. Can you
14 document that for me?

15 MR. BORDEN: I don't have that all with
16 me. I can't --

17 REPRESENTATIVE ANCHIA: Do you have any of
18 it with you?

19 MR. BORDEN: I don't have any of it with
20 me.

21 REPRESENTATIVE ANCHIA: Okay.

22 MR. BORDEN: I don't have any of that with
23 me. I tell you -- I want to tell you this a
24 substantial -- I was formerly in a private investigation
25 business, and some of the issues that we dealt with in



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1 voter fraud involved some of the investigation that we
2 did. I will tell you -- and, by the way -- Well, my
3 second point. I will tell you that much of the
4 information that we have on that is intuitive and
5 empirical rather than having the concrete information to
6 show that it's -- that to show you all that we have it
7 here.

8 I will tell you this. I was involved in
9 2000 down in the State of Florida counting chads, and we
10 found -- we were sitting there in rooms with multiple
11 people counting chads of observing voting fraud -- voter
12 fraud taking place in our presence with at least two
13 people who had fingernails sharpened to a point so as
14 they counted punch card ballots, they were punching
15 holes in the ballots.

16 REPRESENTATIVE ANCHIA: Can I ask you what
17 hanging chads has to do about same day voter
18 registration?

19 MR. BORDEN: Just has to do with the fact
20 that there is some voter fraud that is associated
21 with --

22 REPRESENTATIVE ANCHIA: Okay.

23 MR. BORDEN: -- the integrity of the
24 process. My -- One of my concerns with same day voter
25 registration is a slippery slope that we're looking at.



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1 We're looking at -- We're looking at moving into the
2 direction of same day voter registration. We're looking
3 at making it more possible for people -- for more people
4 to be registered voters, which I have no problem with,
5 providing we can verify the veracity of voters.

6 REPRESENTATIVE ANCHIA: Are you aware that
7 seven states have same day voter registration?

8 MR. BORDEN: I'm very aware of that.

9 REPRESENTATIVE ANCHIA: Would you
10 characterize Idaho as a state that -- where there's a
11 lots of voter fraud or a state that is --

12 MR. BORDEN: No, sir.

13 REPRESENTATIVE ANCHIA: -- not -- not
14 conservative or not protective of its -- of its election
15 system?

16 MR. BORDEN: I knew that question was
17 coming. I would -- I would say this about it. You
18 know, I don't know.

19 REPRESENTATIVE ANCHIA: About Idaho?

20 MR. BORDEN: Yeah. It's in this, but I
21 don't know that -- I don't know -- I don't know what
22 kind of problems they have, if they have any at all.

23 REPRESENTATIVE ANCHIA: Okay.

24 MR. BORDEN: But I do know this. Based
25 upon my own experience in having dealt with issues in



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1 the State of Texas, I do know that there is no possible
2 way that they could confirm the veracity of voters
3 registered on election day. No possible way. It can't
4 be done.

5 REPRESENTATIVE ANCHIA: You said you know
6 of no situation in Idaho. Do you know of a situation in
7 Wyoming?

8 MR. BORDEN: I don't know --

9 REPRESENTATIVE ANCHIA: Do you know --

10 MR. BORDEN: If the state --

11 REPRESENTATIVE ANCHIA: Do you know the
12 situation of New Hampshire?

13 MR. BORDEN: I don't know the cases in any
14 of those states.

15 REPRESENTATIVE ANCHIA: Of Maine,
16 Minnesota --

17 MR. BORDEN: Don't know any of them.

18 REPRESENTATIVE ANCHIA: Wisconsin? Okay.
19 I just wanted to check.

20 MR. BORDEN: No, I haven't checked those.

21 CHAIRMAN BERMAN: Because you talked about
22 war stories and war stories sometimes are like fish
23 stories. They're not true, so -- so when you -- when
24 you -- when you -- when you talk about sort of
25 widespread substantial information and widespread voter



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1 fraud related to to same day voting, I just would like
2 to know if you have anything to substantiate that claim.

3 MR. BORDEN: Do I have such? I have three
4 sheets, three pieces of paper here with nine point type,
5 three columns, with the issues that have occurred in the
6 State of Texas.

7 REPRESENTATIVE ANCHIA: On same day voter
8 registration?

9 MR. BORDEN: Not on same a voter
10 registration.

11 REPRESENTATIVE ANCHIA: Oh, okay. I
12 just -- I just --

13 MR. BORDEN: Not on same day.

14 REPRESENTATIVE ANCHIA: I'm checking.
15 Just checking.

16 MR. BORDEN: Registration, I'm not -- I'm
17 not talking about that. What I'm telling you is that
18 this is a slippery slope direction of the inability to
19 verify the accuracy of the people who are registered to
20 vote.

21 REPRESENTATIVE ANCHIA: Thanks for your
22 testimony.

23 CHAIRMAN BERMAN: Mr. Borden, we found
24 your witness affirmation form for another bill, but you
25 have to fill one out for each bill.



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1 MR. BORDEN: I did. I -- I -- I did
2 after.

3 CHAIRMAN BERMAN: Yeah. Well, you can
4 finish that one right there, Bill.

5 MR. BORDEN: I will.

6 CHAIRMAN BERMAN: And we'll take care of
7 that. Thank you.

8 MR. BORDEN: Thank you very much, sir.

9 CHAIRMAN BERMAN: You bet. Did you find
10 it? All right. Can we have your form? You will be
11 shown voting in favor of the bill. Thank you very much
12 for bringing it to our attention. Ladies and gentlemen,
13 is there anyone else who wishes to testify on, for or
14 against the committee substitute to House Bill 265?
15 Seeing none, the chair calls on Mr. Anchia to close.

16 REPRESENTATIVE ANCHIA: Thank you,
17 Mr. Chair. I appreciate the testimony of all the
18 witnesses and the dialogue that we've been able to have
19 related to this bill. It seems like most of the people
20 that have testified against were concerned about voter
21 fraud. The reality is that there's no evidence of voter
22 fraud in any of the states that have -- there's no
23 evidence of voter fraud related to same day registration
24 in any of the states that -- that currently have it.

25 What it has shown is that it's an



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1 increased turn out substantially in all those states,
2 and I will point out, you know, Charlie just said you
3 may have a partisan bill. This has nothing to do with
4 red or blue, nothing to do with Republican or Democrat.
5 Idaho's a Republican state. Montana's a Republican
6 state. Wyoming's a Republican state. They all have
7 same day voter registration. This is about access.
8 This is about giving the opportunity -- giving the
9 opportunity to people to come register to vote on the
10 same day that they want to vote because of whatever
11 circumstances. There are very conservative provisions
12 in this pilot program that prevent voter fraud.

13 It was suggested that people might come
14 from other states in bus loads to vote. That can
15 absolutely not happen under this pilot program because
16 people would actually have to reside in the precinct
17 where they said they live, and they would have to show
18 identification to prove that. So the suggestion is
19 absolutely absurd that people would come from other
20 states and immediately be able to register and have the
21 opportunity to vote, to say that is to not read the
22 committee substitute, not understand the bill.

23 Mr. Chairman, I would hope for your
24 favorable consideration of this bill and that we have
25 the opportunity to vote it out post taste. Thank you



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1 for the opportunity, Mr. Chairman, to lay it out, and --
2 and I especially appreciate, Mr. Chairman, your
3 constructive dialogue on this bill and your giving me
4 the ability to improve it. Thank you.

5 CHAIRMAN BERMAN: Thank you, Mr. Anchia.
6 Members, we have three other witness forms that just
7 came in. Mary Hatfield does not wish to testify, but
8 she's shown as being against House Bill -- committee
9 substitute to House Bill 265. Susan Barrick being shown
10 as being for committee substitute to House Bill 265, and
11 Johnnie Jones, no testimony, but she's being shown to be
12 for committee substitute to House Bill 265.

13 Members, if there's no objections, the
14 chair at this time withdraws the committee substitute to
15 House Bill 265 and will leave House Bill 265 pending as
16 is the custom of the committee.

17 The Chair lays out House Bill 1290 by
18 Mr. Macias. Mr. Macias, will you please tell us about
19 your wonderful bill? I didn't sign those last three.

20 REPRESENTATIVE MACIAS: Well, good
21 evening, Mr. Chairman. Thank you so much for the
22 opportunity, and my esteemed colleagues and members of
23 the committee. I'm here today to lay out House Bill
24 1290. It's a very simple bill, and I will not be asking
25 any questions of our esteemed committee. I will receive



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1 any questions that you might have.

2 The clarification of the bill that defines
3 the parties who can appeal an ethics commission final
4 decision. The current code on Section 5733 of the
5 Government Code says that -- allows a person to file a
6 petition for appeal and that idea of person is not
7 defined, so it can be a person unrelated to the
8 complaint. For example, if I was to have rendered --
9 there was a decision rendered by the ethics commission,
10 a decision on a complaint that I filed against another
11 member, if you will. Our current law allows any
12 unrelated person, any person in this room or any other
13 person would be able to file an appeal of that decision.
14 And the bill would -- This bill, as I've laid out, would
15 limit the appeal process to just the complainant and the
16 respondent. And it helps to define and clarify which is
17 currently in the law as fairly broad and just the word
18 person. So we're just trying to make sure that we can
19 clean this up.

20 The Texas Ethics Commission Task Force had
21 generated a report, and this is one of the
22 recommendations that was in that report to help clarify
23 from this point forward this idea of who in fact can
24 file for an appeal of a final decision by the
25 commission. With that, I will be open to any other



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1 questions, Mr. Chairman.

2 CHAIRMAN BERMAN: All right. Mr. Macias,
3 thank you very much. Members, do you have any questions
4 for Representative Macias?

5 REPRESENTATIVE ANCHIA: I'm just curious
6 how many bills you've presented before committees today.

7 REPRESENTATIVE MACIAS: This is my third
8 bill.

9 REPRESENTATIVE ANCHIA: This is your a
10 good. All right. I had my first today, and so I was
11 just wondering if you've been down this road before.

12 REPRESENTATIVE MACIAS: Yes, I have. Yes,
13 I have.

14 CHAIRMAN BERMAN: Members, any other
15 questions? No other questions. We show John Courage?
16 No testimony, being for the bill, and we have Natalia
17 Luna Ashley as -- Mr. Burnam? We have Ms. Ashley as a
18 witness for the Texas Ethics Commission, if any of you
19 have any questions for her.

20 Okay. Ms. Ashley, will you please come
21 forward? Natalia? Thank you. State your name and who
22 you are with.

23 MS. ASHLEY: Natalia Ashley, Texas Ethics
24 Commission.

25 REPRESENTATIVE ENGLAND: Hi, Ms. Ashley.



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1 The testimony earlier was that this was one of the
2 recommendations for the Texas Ethics Commission; is that
3 right?

4 MS. ASHLEY: Just a recommendation for
5 clarification of the law, yes, sir.

6 REPRESENTATIVE HOWARD: Okay. So
7 clarification. Was your clarification that you only
8 wanted these two claimant and/or the respondent or was
9 it you just wanted to say some definition of who the
10 person was?

11 MS. ASHLEY: When the commission set out
12 its request for clarification, it presented three
13 options, and the commission is not taking any position
14 on any one of the options. One of the options was just
15 the respondent being able to appeal. The other option
16 was the respondent and the complainant and that the
17 other option was any person. Basically, the commission
18 was just seeking a clarification as to what the
19 legislature would want in this area of law.

20 REPRESENTATIVE HOWARD: Well, current
21 law -- As we I read this, current law says any person
22 could appeal. Is that not right?

23 MS. ASHLEY: That's correct.

24 REPRESENTATIVE HOWARD: So that was one of
25 your options.



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1 MS. ASHLEY: The law says a person, and so
2 we were unclear as to whether the legislature wanted --
3 intended that to be any person.

4 REPRESENTATIVE HOWARD: Okay. So if I
5 hire a political consultant and I'm paying them money
6 and they're supposed to keep up with these things,
7 they've been involved by hiring an attorney to help me,
8 if I'm a respondent, whatever, or complainant or if one
9 of my constituents comes to me and wants me to file a
10 complaint to whatever, and they want to follow up, and
11 they want to appeal under this bill, they would not be
12 able to do that; is that correct?

13 MS. ASHLEY: That's correct.

14 REPRESENTATIVE HOWARD: So --

15 MS. ASHLEY: It would only be the person
16 against whom the complaint was filed and the person who
17 filed the complaint.

18 REPRESENTATIVE HOWARD: That the person
19 that I'm paying -- I being an attorney or a political
20 consultant to follow this for me would not be able to do
21 that?

22 MS. ASHLEY: If that person was not a
23 respondent or a complainant, that's correct.

24 REPRESENTATIVE HOWARD: Whether the --
25 Most of the complaints are filed against the person



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1 running for office typically or person who's given a
2 gift or whatever; is that correct.

3 MS. ASHLEY: Most of the respondents are
4 candidates or officers for an elective office.

5 REPRESENTATIVE HOWARD: All right. So
6 your -- your -- your question was clarification about
7 who a person is.

8 MS. ASHLEY: Yes.

9 REPRESENTATIVE HOWARD: Okay. And what I
10 have suggested to you is a person could be a consultant,
11 could be an attorney, could be a constituent who is
12 interested in the case.

13 MS. ASHLEY: That's right. And I think
14 that the law could be interpreted to mean that and it
15 would and that is the desire of the legislature adding
16 the word any person would make that clear.

17 REPRESENTATIVE HOWARD: Okay. So -- So
18 all you really were asking for was clarification.

19 MS. ASHLEY: Yes, sir.

20 REPRESENTATIVE HOWARD: You weren't saying
21 we wanted to be the complainant and the respondent only.
22 You were just asking for a clarification --

23 MS. ASHLEY: That's correct.

24 REPRESENTATIVE HOWARD: -- who a person
25 is.



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1 MS. ASHLEY: That's right.

2 REPRESENTATIVE HOWARD: Okay. How would
3 you define who a person is?

4 MS. ASHLEY: I think the way that the law
5 is currently written, it would be any person.

6 REPRESENTATIVE HOWARD: Okay.

7 MS. ASHLEY: It could probably mean that.

8 REPRESENTATIVE HOWARD: I am very
9 confused. You'll have to help me, and I apologize. If
10 we're saying the current law says a person, and you are
11 asking for clarification of who's the person.

12 MS. ASHLEY: Well, what we are -- May I
13 give you an example?

14 REPRESENTATIVE HOWARD: Yes, ma'am.

15 MS. ASHLEY: If -- Let's say that a -- an
16 individual files -- a complainer files a complaint
17 against an official. The commission deliberates and
18 makes a determination that a violation occurred, reaches
19 a resolution with the official. The official signs the
20 order. The commission pays the fine, whatever the case
21 may be, and the law as currently written would allow
22 anyone potentially to appeal that decision.

23 REPRESENTATIVE HOWARD: Is that a bad
24 thing?

25 MS. ASHLEY: I mean, I don't know. That



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1 has never happened. I mean that's -- We have had
2 situations where respondents appeal a commission
3 decision to this report. In the 1,700 complaints filed
4 with the commission, that has happened three times. The
5 number of complaints increase on a yearly basis. Last
6 year we had 270. We started off the first year with 49.
7 So this is not an issue -- a light issue that we've ever
8 dealt with. We -- Because the number of complaints are
9 increasing, the likelihood for this situation to arise
10 increases, so because the law currently says a person,
11 we wanted to try to seek some clarification. I think
12 that if the law is left as currently written, it could
13 mean any person.

14 REPRESENTATIVE HOWARD: Is there a problem
15 with that?

16 MS. ASHLEY: No. And that's -- that's --
17 No. I mean the commission is not in -- its
18 recommendation -- it's not saying we have a problem.
19 We're just saying this is an area of the law that we
20 think may create a problem. So to the extent that the
21 legislature wishes to clarify it or limit it to just a
22 respondent involved in a complaint or -- or the
23 respondent and the complainant, then that's something
24 that the commission thought --

25 REPRESENTATIVE HOWARD: You think the



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1 commission would be open to having it to anyone who
2 represents a respondent or a complainant?

3 MS. ASHLEY: I think that the commission
4 is happy to do whatever the legislature would ask the
5 commission to do, and I think that this is just a -- an
6 area that the commission has addressed that may need
7 some clarification and perhaps not. Maybe what the
8 legislature intended was for any person to appeal a
9 commission decision regarding this one complaint matter,
10 and if that is the desire of the legislature, well,
11 that's really what the commission would do with the
12 current language of the law.

13 REPRESENTATIVE HOWARD: Thank you very
14 much.

15 CHAIRMAN BERMAN: Mr. Bohac?

16 REPRESENTATIVE BOHAC: Maybe this will
17 help maybe, Charlie. I don't know if this is the
18 direction you're going, but listening to the dialogue
19 here. What if it said a complainant, if any, or
20 respondent or agent of the complainant or respondent?

21 REPRESENTATIVE HOWARD: That -- She's just
22 looking for clarification. She doesn't have a problem
23 about it being in person, if that's what she --

24 MS. ASHLEY: Right.

25 REPRESENTATIVE HOWARD: If that's what we



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1 meant. I think what you're saying is what you want to
2 know is what -- whoever relative law, that's us at this
3 present time, what we meant by that.

4 MS. ASHLEY: That's right.

5 REPRESENTATIVE HOWARD: And you don't
6 really care what we meant.

7 MS. ASHLEY: No.

8 REPRESENTATIVE HOWARD: Whatever we say
9 you're going to --

10 MS. ASHLEY: That's right. That's right.

11 REPRESENTATIVE HOWARD: -- follow.

12 MS. ASHLEY: And I.

13 REPRESENTATIVE HOWARD: You all are really
14 good about that, so --

15 MS. ASHLEY: Thank you.

16 REPRESENTATIVE HOWARD: You are just
17 trying to decide -- You want us to tell you what you
18 want -- what we want you to do.

19 MS. ASHLEY: That's right. We just
20 thought that perhaps this would be a good opportunity to
21 get feedback from you before we are faced with a
22 situation where the commission perhaps considers a
23 complaint, dismisses it and then you have an ordinary --
24 you have just any person appeal that to District Court
25 or reaches a resolution with a respondent and then



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1 appeals that to District Court. Again, this has never
2 happened, but it may, and so we were just trying to stay
3 a step ahead of the situation and try to seek
4 clarification.

5 REPRESENTATIVE HOWARD: Thank you.

6 CHAIRMAN BERMAN: I'll tell you, would you
7 be a lot more comfortable if we clarified that in the
8 law instead of just telling you? I think you'd like to
9 have it in writing.

10 MS. ASHLEY: Yes. I think our commission
11 would -- would prefer that.

12 CHAIRMAN BERMAN: Okay. Thank you very
13 much.

14 MS. ASHLEY: Thank you. Any other
15 questions?

16 CHAIRMAN BERMAN: No other questions.
17 Thanks, Natalia. Is there anyone else who would like to
18 testify on for or against House Bill 1290? Seeing
19 none -- Mr. Macias? Mr. Macias, let me ask you a
20 question.

21 REPRESENTATIVE MACIAS: Yes, Mr. Chairman.

22 CHAIRMAN BERMAN: I know you heard the
23 dialogue and you heard the words of Mr. Bohac. If we
24 just add in language concerning an agent of both the
25 client -- the complainant and the respondent --



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1 REPRESENTATIVE MACIAS: Yes, sir.

2 CHAIRMAN BERMAN: -- could you do that
3 with a substitute or a committee substitute?

4 REPRESENTATIVE MACIAS: No doubt. In
5 fact, Representative Bohac read my mind as I was getting
6 ready for close that I'd be more than happy to address
7 the issues that Representative Howard brought up. As we
8 -- as we -- As we work this, we saw these options. We
9 were looking at some sort of way to clarify. I, as the
10 author of the bill, chose to use this option as the way
11 to get some clarification in, so I'm more than open,
12 Mr. Chairman, to amending this to get you a substitute
13 that we can add this idea of the agent.

14 CHAIRMAN BERMAN: Complainant or
15 respondent?

16 REPRESENTATIVE MACIAS: With that, I -- I
17 close and ask you to just leave this open pending.

18 CHAIRMAN BERMAN: Mr. Macias, you did a
19 great job.

20 REPRESENTATIVE MACIAS: Thank you.

21 CHAIRMAN BERMAN: As Mr. England said, we
22 really do appreciate your testimony, and we'll be
23 waiting to hear from you with your committee substitute.

24 REPRESENTATIVE MACIAS: Thank you.

25 CHAIRMAN BERMAN: Thank you very much.



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1 REPRESENTATIVE MACIAS: Thank you.

2 CHAIRMAN BERMAN: Members, we're now going
3 to take up three bills. Well, before we do that, let me
4 take up one other bill. Mr. Anchia, are you ready with
5 House Bill 266? The chair calls up House Bill 266 and
6 calls on Representative Anchia to provide information on
7 the bill. Do we have any testimony?

8 REPRESENTATIVE ANCHIA: Thank you,
9 Mr. Chairman. HB266 is a very simple bill. It
10 acknowledges the importance of voting and giving people
11 the opportunity to vote, and it honors with the creation
12 of a state holiday, the -- the days of an election and
13 state-wide elections. Since it adds to the list of
14 state-wide holidays, every day on which an election,
15 including a primary election, is held throughout the
16 state. Texas traditionally ranks near the lowest in the
17 nation in voter turnout. In the 1998 midterm elections,
18 Texas ranked 45th in voter turnout with just 39 percent
19 of registered voters. In 2000, it ranked 34th with
20 62 percent of registered voters. Excuse me. And in
21 2002, it ranked 43rd out of 50 states with just
22 44 percent of registered voters. In 2004, it ranked
23 48th in terms of voter turnout. A way to increased
24 turnout would be to declare a state-wide holiday where
25 state offices were closed, and it would give the



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1 opportunity for people to come out. The bipartisan
2 Ford/Carter commission recommended in 2001 that Federal
3 elections be held on national holidays in order to
4 increase turnout, provide additional poll workers, to
5 increase -- excuse me -- to assist at the polls. This
6 would be a gateway to make sure we had more people
7 available to work the polls. I know a lot of people
8 have articulated concerns about the availability of poll
9 workers, and this would help solve that problem. With
10 that, I will take questions.

11 CHAIRMAN BERMAN: Mr. Anchia, I guess I'll
12 start. I'm looking at the fiscal note, and I just can't
13 believe the fiscal note when it says no significant
14 fiscal implications to the state is anticipated. When
15 you get the entire state off for one day, we lose a
16 day's productivity of every single employee of the
17 state. And they're saying that there is no -- no fiscal
18 implication.

19 REPRESENTATIVE ANCHIA: Yeah. It not only
20 says no fiscal implications to the state is anticipated,
21 but it also says no fiscal impact to local government.
22 So I take -- I take the comptroller's office at their
23 word on that, Mr. Chair.

24 CHAIRMAN BERMAN: This comes from the
25 legislative budget board. I may have to ask the



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1 comptroller for their fiscal --

2 REPRESENTATIVE ANCHIA: I take the LBB at
3 their word, Mr. Chair.

4 CHAIRMAN BERMAN: I don't. I know that we
5 all get -- we all get paid -- as state employees, we
6 don't get paid very much, those of us on this dais, but
7 a state employee does get paid and when they're not
8 working on the job, the state loses that much
9 productivity, so there just has to be a fiscal note.

10 REPRESENTATIVE ANCHIA: Well, the fiscal
11 note wouldn't -- wouldn't change because you're paying
12 those employees anyway, but the --

13 CHAIRMAN BERMAN: But would not get any
14 productivity though.

15 REPRESENTATIVE ANCHIA: But the net cost
16 -- but the net cost would not be any greater than it is
17 now, and I'm sure that's why the -- the analysis shows
18 no -- no fiscal implication to the state because those
19 costs continue to be those costs.

20 REPRESENTATIVE BURNAM: Mr. Chair?

21 CHAIRMAN BERMAN: Mr. Burnam?

22 REPRESENTATIVE BURNAM: I'd just like to
23 ask a philosophical question of the chair. Except for
24 possibly child protective services and adult protective
25 services, wouldn't we be better off if there was



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1 additional holidays and state employees weren't working?

2 CHAIRMAN BERMAN: Mr. Burnam, I think
3 there's a lot of state employees that will disagree.
4 Thank you for the question. I'll check with the
5 comptroller because there has to be some cost of people
6 not producing on their jobs and just staying at home.
7 Are there any other questions, members? If not, I'll
8 call on witnesses starting with Stephen Reeves. No
9 testimony, shown for the bill. Okay. Start handing
10 them over. Susan Barrick, no testimony shown for the
11 bill. Mary Hatfield, no testimony shown for the bill.
12 Johnnie Jones, no testimony shown for the bill. Kathryn
13 Dean, no testimony shown for the bill. Luis Figueroa,
14 no testimony shown for the bill. Ken Bailey, no
15 testimony shown for the bill. Teri Sperry, no testimony
16 shown for the bill. Mary Finch, no testimony shown for
17 the bill. Ysidro Gutierrez -- Gutierrez, no testimony
18 shown for the bill. Marcelo Tafoya? Marcelo Tafoya?
19 Is Marcelo here? All right. He's shown for the bill.
20 Dana DeBeauvoir without the gun.

21 MS. DE BEAUVOIR: Good evening, Mr. Chair
22 and members of the committee. My name is Dana
23 DeBeauvoir. I'm the Travis County Clerk, and I am
24 representing the county and district clerk's legislative
25 committee. So what we would like to share with you is a



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1 couple of points that are really important about this
2 bill. County clerks are in favor of it.

3 The first point that we'd like to make is
4 we just get all aflutter at the idea of all of those
5 wonderful state employees and banking employees and, you
6 know, all of those folks who might be able to work the
7 election. That's -- That's a very exciting crop of
8 people who recruit. We're thrilled with that. But more
9 seriously, I think we're reaching a point where we're
10 going to have to contend with an issue that's evolving,
11 and the issue that I'm referring to is many, many of our
12 polling places are, in fact, public schools.

13 The public schools are crowded for space.
14 It's often difficult to have the polling place itself
15 with its workers plus the voters coming in, plus the
16 teachers, plus the children, and there has been growing
17 concern about mixing the population, especially smaller
18 children, middle school aged children, with just
19 incoming voters. And I -- I -- we -- we kind of
20 sympathize with parents who are concerned that, just the
21 general public in a precinct just walking into a school
22 that day. If the schools were closed because it's a
23 holiday, then we could have that separation between the
24 children and the voting population. And, also, we would
25 have facilities that would be much larger and could much



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1 more accommodate what is also becoming an issue of long
2 lines forming, especially late in the day at the polling
3 place.

4 While our turnout might not be great
5 compared to other states, we certainly do experience
6 lines especially forming late in the day. So we would
7 just like to make that point to the committee that
8 separating the children from the voters might be
9 something we really should think about.

10 CHAIRMAN BERMAN: Do you think
11 superintendents would want to close their schools six
12 extra days a year?

13 MS. DE BEAUVOIR: We'll be glad for just
14 one extra day a year, if I could just have one. I don't
15 know. I don't have a position for -- for the school
16 boards. We do indeed need to ask them.

17 CHAIRMAN BERMAN: I didn't think you did.

18 MS. DE BEAUVOIR: I did suggest that we
19 would want to work and talk with -- with them.

20 CHAIRMAN BERMAN: Mr. Bohac?

21 REPRESENTATIVE BOHAC: Dana, how are you?

22 MS. DE BEAUVOIR: I'm doing great. Thank
23 you.

24 REPRESENTATIVE BOHAC: Welcome to
25 elections this year.



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1 MS. DE BEAUVOIR: Thank you. I see new
2 faces here.

3 REPRESENTATIVE BOHAC: Good to see your
4 smiling face again.

5 MS. DE BEAUVOIR: Thanks.

6 REPRESENTATIVE BOHAC: Just real quick,
7 really voting now is already a season. It's really not
8 just an election day anymore. In fact, what are the
9 statistics in your county of folks who do go vote early?

10 MS. DE BEAUVOIR: Oh, it's about 50/50.
11 About half of my voters will take advantage of early
12 voting.

13 REPRESENTATIVE BOHAC: And do you see that
14 increasing year over year as people become more
15 accustomed to early voting?

16 MS. DE BEAUVOIR: I think that statistic
17 varies from county to county depending on the kind of
18 program you run and how many polling places you have.
19 But, yes, certainly as people have gotten accustomed to
20 the convenience of early voting, it does seem to be very
21 popular.

22 REPRESENTATIVE BOHAC: And then, secondly,
23 as -- as we move to what I hope is more to the super
24 precinct concept, that also makes voting easier as well.
25 And I'm just trying to balance the need between making



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1 the polling locations available for more than just one
2 day, but, also, not asking the state and other companies
3 to necessarily take the cost of -- of giving people a
4 holiday. I think there's -- that's kind of old school
5 thinking. I think new school thinking is perhaps moving
6 more towards the super precinct concept and, also,
7 educating voters that voting is a season. It's no
8 longer a day.

9 So for us to argue that voting is just a
10 day and people don't have any other day to go vote when
11 they have weekends and evenings, and, I mean, truly
12 early voting is a season. Perhaps our job is to just
13 make sure people are as educated as they can be that
14 voting is no longer a day. That may be the better route
15 to go. I'm just kind of thinking along those lines.

16 MS. DE BEAUVOIR: Representative, we
17 concur with your concerns about the number of days, and,
18 you know, how we might perhaps not have to deal with an
19 additional cost so much as a lost productivity. It
20 seems like the question is a different question.

21 But I am so glad you brought up the idea
22 of super sites because we're going to run into a
23 problem. What's happened with super sites is they're
24 gaining in popularity. It looks like it's going to be a
25 terrific tool for the future. However, for the inner



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1 city, older parts of town, the dense, you know, center
2 city parts, it is going to be very difficult to find a
3 suitable structure that will hold enough people to be
4 able to serve as a super site. We promised Wal-Mart.
5 We can't very well deliver a 7-Eleven. It's just not
6 going to work, and, certainly, Colorado felt the bite of
7 that problem.

8 If we were to be able to use the schools
9 though, then we don't have to worry about -- some parts
10 of town have good infrastructure, some don't. The
11 school's very equitably distributed, and we would have
12 that facility and perhaps the entire school doesn't have
13 to shut down. Perhaps only if we were going to super
14 sites, just the gymnasium or something large like that.
15 We appreciate this tie-in with super sites.

16 REPRESENTATIVE BOHAC: Sure. And not to
17 get off on a rabbit trail, I mean, that will be a
18 discussion for a different day on this committee that --
19 the super precincts, but I think your point is well
20 taken. It's not just a direct cost of paying the labor
21 force at all. There's the -- There's the indirect cost
22 of lost productivity, so this would be a huge financial
23 impact. I don't know if I much agree with the -- the
24 LBB's concept of no fiscal impact to the state. I would
25 have to look at the way they're measuring that. Maybe



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1 just direct cost, but there's certainly some substantial
2 indirect cost in terms of lost productivity that would
3 have to be -- that would be paid for by somebody, and I
4 just think about elections being a season.

5 Now, this may not be as forward thinking
6 as it is. I think we just -- we just need to look -- I
7 think the super precinct concept and then the election
8 season is addressing what -- what this bill is
9 attempting to solve.

10 CHAIRMAN BERMAN: Members, witnesses,
11 before we go on, I want to caution you, we have three
12 major bills that are coming up in just a few moments,
13 and I want to ask that when you testify, don't repeat
14 what other witnesses have said. We have it all on tape
15 and on television. Just please add anything new that
16 you want to add. Dana -- Oh, I'm sorry, Mr. Anchia.
17 Did you have --

18 REPRESENTATIVE ANCHIA: Yeah. Just really
19 quickly in response to Mr. Bohac's and Mr. Burnam --
20 Chairman Burnam's concern. I wasn't crazy -- I actually
21 did take the comptroller out there. What I have before
22 me dated January 29, 2007, the comptroller public
23 accounts fiscal note estimate which says that this bill
24 -- let's see -- this bill would have no fiscal impact on
25 the state or units of local government.



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1 So in addition to LBB, we have a
2 determination by the comptroller of public accounts and
3 their fiscal note estimate dated January 29, 2007 that
4 it would have no fiscal impact on the state or units of
5 local government. This bill would have no effect on the
6 state's cash flow. There would be no administrative
7 cost to the comptroller's office, and their methodology
8 said because state agencies are required to maintain
9 sufficient staff on duty to conduct business during
10 state holidays, state agencies and institutions of
11 higher education would continue to function on these
12 election days, thereby, allaying some of the concerns
13 both the chairman and the vice-chairman have with
14 respect to this. I wanted to read that into the record
15 before we wasted too much time thinking about those
16 concerns.

17 And, Mr. Bohac, you pointed out that we
18 don't -- in addition, during the testimony, you pointed
19 out that we do not want to require companies to do
20 things. This bill does not require companies to do
21 anything. Companies can choose one way or the other
22 whether they want to stay open or closed, and I just
23 want to make that clarification before Ms. DeBeauvoir
24 finished her testimony. Thank you.

25 CHAIRMAN BERMAN: Thank you, Mr. Anchia.



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1 You haven't relieved my concerns. When you allow a
2 whole staff of people to go with a payroll of a half
3 billion dollars in doing absolutely nothing but going to
4 the polls, a half billion dollars worth of productivity
5 is wasted, I'm sorry to say, and I'll be speaking to the
6 comptroller about that and, also, to the legislative
7 budget board, but let's not -- let's not --

8 REPRESENTATIVE ANCHIA: Well, I'd just
9 like to point out entire staffs would not be sent to the
10 polls. It would say --

11 CHAIRMAN BERMAN: I didn't say that.

12 REPRESENTATIVE ANCHIA: It would say state
13 -- And I'm reading from the comptroller, and, again, I
14 take them at their word. State agencies are required to
15 maintain sufficient staff on duty to conduct the
16 business of the state during state holidays. State
17 agencies and institutions of higher education would
18 continue to function on these days.

19 CHAIRMAN BERMAN: Thank you. Thank you,
20 Dana.

21 MS. DEBEAUVOIR: Thank you very much.

22 CHAIRMAN BERMAN: The chair calls Will
23 Harrell. Mr. Harrell, are you here? Mr. Harold
24 indicated no testimony for the bill. The chair calls
25 Suzy Woodford. No testimony for the bill. The chair



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1 calls Ray Martinez.

2 MR. MARTINEZ: Thank you, Mr. Chairman.

3 Ray Martinez with the Texas Conference of Urban
4 Counties. We are neutral on this bill. Mr. Chairman
5 and members, there is -- not a fiscal notification to
6 local governments has been discussed already. I would
7 simply amplify -- and I know that we're not supposed to
8 repeat previous testimony, but, obviously, the -- the
9 job of being a poll worker is increasingly complex, and
10 we need bilingual poll workers. We need poll workers
11 that are comfortable with technology. Any time there is
12 a new pool of potential poll workers, we're -- as a
13 county government, we're certainly excited about that
14 possibility.

15 CHAIRMAN BERMAN: Questions, members?

16 Thank you.

17 MR. MARTINEZ: Thank you, Mr. Chairman.

18 CHAIRMAN BERMAN: The chair calls Bruce
19 Galloway. Bruce, welcome.

20 MR. MARTINEZ: Mr. Chairman and members,
21 I'm opposed to the bill for a couple of reasons. Number
22 one, I think your down pressure on your employers is
23 going to be fierce. Well, the state employees are off.
24 We need to be off, and now you are going to cost
25 everybody a lot of money. I don't think it's fair. I



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1 don't think it's fair for you to pressure them and
2 that's what's going to happen.

3 Now, in regard to the schools closing,
4 this is a lot of nonsense. I have been an election
5 judge since 1980. We've held it at University Park
6 Elementary School every time, and we have never had a
7 problem. We have never had an issue. The school makes
8 money because they have bake sales and they have about
9 1,800 people to buy all this stuff. They bring the kids
10 down by classes, and we let them observe the election
11 process. What a better learning tool can we have? The
12 bill just -- we don't need this bill.

13 CHAIRMAN BERMAN: Bruce, before you leave,
14 will you state who you represent?

15 MR. MARTINEZ: Myself.

16 CHAIRMAN BERMAN: Thank you. Members, any
17 questions? Hearing none, the chair calls Bill Borden.

18 MR. BORDEN: Mr. Chairman, I'm -- I'm
19 going to be brief.

20 CHAIRMAN BERMAN: State your name.

21 MR. BORDEN: I'm Bill Borden. I represent
22 myself.

23 CHAIRMAN BERMAN: Okay.

24 MR. BORDEN: I oppose the proposal, I
25 oppose the bill, and I don't have anymore to say. Thank



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1 you.

2 CHAIRMAN BERMAN: Thank you. The chair
3 calls Nathanael Isaacson. Mr. Isaacson?

4 MR. ISAACSON: I have no testimony, but I
5 just want to be on the record.

6 CHAIRMAN BERMAN: The record is being for
7 the bill?

8 MR. ISAACSON: Right. (Inaudible.)

9 CHAIRMAN BERMAN: Okay. Thank you very
10 much. The chair calls Paula Littles.

11 MS. LITTLES: I'm going to -- I promise,
12 Mr. Chairman, that I will not repeat to what anyone else
13 has said. My name is Paula Littles, and I'm with the
14 Texas AFL-CIO, and we represent the very hard working
15 state employees in the State of Texas. They are one of
16 the unions that are affiliated with the Texas AFL-CIO,
17 and I indeed feel as if they're very hard working
18 people. We support this bill for a number of reasons.

19 One is, we generally believe that election
20 day is a holiday, even if it is just for the state
21 employees, will indeed increase voter participation in
22 the state. Unfortunately, we do have quite a lot of
23 avenues for people to vote early, and since that has
24 occurred, the very unfortunate thing about that is it
25 has really not increased our voter participation in the



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1 state. We -- It is our opinion that we have to look at
2 every mechanism possible to increase people coming to
3 the polls and participating in the one thing that should
4 be important for everyone in this room as well as every
5 person in this country.

6 And just a little history. The reason
7 that election day is in November is actually because
8 when Congress looked at it, they realized that they
9 needed to pick a time when the harvest was in and that
10 people weren't working, so that they actually could go
11 and vote. And that is the reason election day is in
12 November, and I won't go into why it was picked that
13 day, but I basically felt compelled to speak instead of
14 just saying I was in favor of the bill. And are there
15 any questions? And thank you for your testimony.

16 CHAIRMAN BERMAN: Thank you so much for
17 your testimony. The chair calls Sonia Santana.

18 MS. SANTANA: I don't have any -- I won't
19 testify, Mr. Chair, but I would like to say that I'm
20 speaking for ACLU Texas. No testimony.

21 CHAIRMAN BERMAN: All right. Thank you.
22 The chair calls Mary Ann Collins. Mary Ann, are you
23 here?

24 UNIDENTIFIED SPEAKER: She had to leave.

25 CHAIRMAN BERMAN: All right. Mary Ann is



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1 shown against the bill. No testimony. The chair calls
2 Ken Flippin. No testimony for the bill. The chair
3 calls Mr. Champion. Mr. Champion, are you here?
4 Mr. Champion will be shown for the bill. The chair
5 calls Skipper Wallace. Mr. Wallace, state your name and
6 who you are with, please.

7 MS. LITTLES: Skipper Wallace. I
8 represent the Texas Republican County Chairmans
9 Association. We oppose this bill, and I understand what
10 you have from the comptroller's office, and I think that
11 they need to go back and look at their figures. I was a
12 city manager for 14 years, and every time the state took
13 a holiday, the city took a holiday, I didn't get the
14 trash picked up. I didn't get the roads paved. I
15 didn't get anything else done, and it had to be done
16 sometimes, so we did it on overtime or we worked extra
17 days, and the counties do the same thing. When the
18 state declares another holiday, the county gets another
19 holiday. They don't get any work done. It may not be
20 in dollar cost, but it's in productivity which equates
21 to cost. Any questions?

22 CHAIRMAN BERMAN: Thank you. Any
23 questions, members? Thank you, Mr. Wallace. We have
24 Ann McGeehan here from the Texas Secretary of State's
25 Office. Anyone like to hear Ann, please?



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1 MS. McGEEHAN: Ann McGeehan with the
2 Secretary of State's office.

3 CHAIRMAN BERMAN: Mr. Burnam?

4 REPRESENTATIVE BURNAM: Thank you, Ann.
5 I'd like maybe the three and a half minute version of
6 the growing difficulty in recruiting people to work what
7 in essence is a minimum of 14 or 15-hour workday and
8 what this might gain us in the ability to conduct our
9 elections all across the state.

10 MS. McGEEHAN: Well, because the state
11 doesn't recruit election workers, I can only speak to
12 what I've heard anecdotally --

13 REPRESENTATIVE BURNAM: Right. I
14 understand.

15 MS. McGEEHAN: -- from the counties and
16 cities, and I think some communities have a harder time
17 finding folks to work the polls than others. It's
18 definitely a problem, but folks that work the polls tend
19 to be -- are older citizens, and it's been repeated to
20 me that counties have had a hard time getting people
21 interested.

22 REPRESENTATIVE BURNAM: Is that a worse
23 problem in the urban areas maybe?

24 MS. McGEEHAN: I really don't know.

25 REPRESENTATIVE BURNAM: I know it's been a



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1 growing problem in Tarrant County, and I really hadn't
2 thought about this until we heard other testimony, but
3 we are having a growing problem in recruiting enough
4 people to work it, and this would certainly be a savings
5 for us.

6 CHAIRMAN BERMAN: Ann, thank you very
7 much.

8 MS. MCGEEHAN: Thank you.

9 CHAIRMAN BERMAN: Is there anyone else who
10 wishes to testify on, for or against House Bill 266?
11 Hearing, none, Mr. Anchia to close.

12 REPRESENTATIVE ANCHIA: Thank you,
13 Mr. Chairman, and, once again, thank you for giving me
14 the opportunity to lay out these bills in committee. I
15 appreciate you working with me on -- in proving these
16 bills and just -- just want to speak to a question that
17 was asked earlier by the chair or a comment, I guess,
18 that was made where it was articulated that there might
19 be six extra days. The reality is that there would only
20 be two pursuant to this bill, a day on which the
21 primary's held and a day on which the general election
22 is held and that's stated at the bottom of the bill in
23 Section 662.033B9, which would be the new section which
24 reads, "Everyday on which an election, including a
25 primary election, is held throughout the state," so this



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1 would be state-wide elections which typically happen in
2 November and the primary election. So I just wanted to
3 clarify that for you. It would not be, in fact, six
4 extra days, but, rather, only two days.

5 Once again, I reiterate that the fiscal
6 note from the LBB and from the comptroller's office,
7 whichever the only two sources that we have to rely on,
8 show no impact. The reality is that despite the
9 suggestions by witnesses to the contrary, is that this
10 only impacts the state, does not impact business, does
11 not impact local government, and in its requirement to
12 have a day off to the extent the local governments felt
13 pressure, they could elect to do one of two things.
14 Either declare the day off for their local either
15 employees, if it's a private corporation, or public
16 employees, if it's a municipal entity or not. And that
17 would be -- that would continue to be within their
18 purview.

19 This only affects state employees, and as
20 we suggest -- as we discussed earlier, the methodology
21 used by the comptroller's office in their fiscal note
22 estimate points out clearly that because state agencies
23 are required to maintain sufficient staff on duty to
24 conduct business during state holidays, state agencies
25 and institutions of higher education would continue to



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1 function on these election days. And I close,
2 Mr. Chair. Thank you.

3 REPRESENTATIVE BURNAM: May I ask?

4 CHAIRMAN BERMAN: Yes, Mr. Burnam.

5 REPRESENTATIVE BURNAM: Mr. Anchia?

6 REPRESENTATIVE ANCHIA: I'm not taking any
7 further questions. No I'm kidding. I'm kidding.

8 REPRESENTATIVE BURNAM: I'm noticing that
9 the way it's stated, it's election day and primary
10 election, so it doesn't even include runoffs the way
11 it's worded.

12 REPRESENTATIVE ANCHIA: That's correct.

13 REPRESENTATIVE BURNAM: And so we're
14 really talking --

15 REPRESENTATIVE ANCHIA: It's only for
16 state-wide on a day in which elections are conducted
17 state-wide.

18 REPRESENTATIVE BURNAM: And we don't know
19 for sure. There may be runoffs in certain places, and I
20 understand. So what we're really talking about is
21 two days out of the two-year budget cycle for the state.

22 REPRESENTATIVE ANCHIA: Well, I don't know
23 if it's only two days in the two-year budget cycle
24 because there may be a November election, a
25 constitutional election in off years that would also be



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1 covered by this.

2 REPRESENTATIVE BURNAM: So there could
3 be --

4 REPRESENTATIVE ANCHIA: A third. There
5 could be a third.

6 REPRESENTATIVE BURNAM: -- three in the
7 two year cycle.

8 REPRESENTATIVE ANCHIA: That's correct,
9 sir.

10 REPRESENTATIVE BURNAM: Thank you.

11 CHAIRMAN BERMAN: We're going to change
12 the procedure just a little bit. I'm going to call up
13 each of the authors of the bills on identification and
14 let them lay out their bills and then we'll hear
15 witnesses testifying on all three bills. So, at first,
16 I will call -- call up House Bill 218 and call Chairman
17 Betty brown to lay out House Bill 218, and I'll call
18 Chairman Phil King to lay out House Bill 626 and then
19 Representative Riddle to lay out House Bill 101. Betty,
20 it's good to have you.

21 REPRESENTATIVE BROWN: Thank you,
22 Mr. Chairman. Appreciate your giving me this
23 opportunity. There's been so much said about voter
24 registration, and so I'll try to make this very brief
25 and not repeat anything else. There are presently --



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1 there are -- There are no statutory standards to verify
2 the identity of individuals at the polling place when
3 they present a voter registration certificate. HB218
4 modifies provisions requiring a voter to present proof
5 of identification when offering to vote. The bill
6 requires that in offering to vote, a voter must present
7 either one form of photo identification or two different
8 forms of non-photo identification. If the person fails
9 to meet these standards, they may still vote upon
10 completion of a provisional ballot affidavit.

11 HB218 adds proof of identification to the
12 existing qualifications required for our provisional
13 ballot to being accepted by the early voting ballot
14 board. Voting is the most important right in America.
15 And as I have said before, I consider this a very
16 personal thing because I think when someone votes who's
17 not qualified and shouldn't be voting, it diminishes the
18 rights that the rest of us have and this great privilege
19 that we have to vote.

20 The government requires voters to register
21 before receiving a ballot, therefore, verifying the
22 information they provide on their registration
23 application is not a measure designed to prevent any
24 citizen from voting. It is instead a measure designed
25 to keep illegal aliens, noncitizens and people otherwise



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1 not qualified from voting and diluting the legitimate
2 votes cast by citizens. So that pretty well covers what
3 my bill addresses. I could go into a lot of instances
4 that I've seen happen at the polls because I've worked a
5 lot of elections myself, but I will save that for
6 another day.

7 CHAIRMAN BERMAN: I will allow members to
8 question. Do you have a question?

9 UNIDENTIFIED SPEAKER: Yes.

10 CHAIRMAN BERMAN: Lon?

11 REPRESENTATIVE BURNAM: Thank you,
12 Chairman Brown, in your closing comments just then, you
13 mentioned a concern about illegal aliens and noncitizens
14 voting. They can't register to vote at this, time can
15 they?

16 REPRESENTATIVE BROWN: All it takes to
17 register to vote if you are a noncitizen is to check a
18 box. It presently is not -- there's no one verifying
19 that that person is a citizen. There's a little box
20 that says check here if you're a citizen, and so that's
21 all it takes. We know that this is happening, that
22 people are registering to vote because they're showing
23 up in the jury pools. As people are called in, you
24 know, those people who are called in to serve on a jury
25 are taken from the registered voter list, right?



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1 REPRESENTATIVE BURNAM: No. I thought
2 they were taken from the driver's license list. Back
3 when you first learned that fact, that was true.

4 REPRESENTATIVE BROWN: Okay.

5 REPRESENTATIVE BURNAM: But that's one of
6 those facts that has changed over time.

7 REPRESENTATIVE BROWN: Okay. Let's say
8 it's from the driver's license list. There are still
9 people showing up to serve on juries because they've
10 been summoned, and when they get there admit that
11 they're not citizens because as, again, when you go to
12 get a driver's license, all you have to do is say yes,
13 check a box or whatever, and say you're a citizen or if
14 it's even asked.

15 REPRESENTATIVE BURNAM: I don't believe
16 it's asked --

17 REPRESENTATIVE BROWN: Okay.

18 REPRESENTATIVE BURNAM: -- in acquiring a
19 driver's license. I don't believe you have to indicate
20 your citizenship status.

21 REPRESENTATIVE BROWN: Okay. So you --

22 REPRESENTATIVE BURNAM: So -- So in the
23 jury pool, you are in increasing numbers --

24 REPRESENTATIVE BROWN: Assumed.

25 REPRESENTATIVE BURNAM: -- going to be



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1 drawn from a population base that -- with noncitizens
2 because --

3 REPRESENTATIVE BROWN: Correct.

4 REPRESENTATIVE BURNAM: -- because we made
5 a conscious decision to change where we draw our jury
6 pool from. We used to do it from the --

7 REPRESENTATIVE BROWN: Okay.

8 REPRESENTATIVE BURNAM: -- registered
9 voter list.

10 REPRESENTATIVE BROWN: And my story --

11 REPRESENTATIVE BURNAM: -- and it was
12 determined that --

13 REPRESENTATIVE BROWN: -- came from a
14 judge -- a court at law judge who shared with me that
15 they had more and more people showing up because they've
16 been summoned to serve on juries --

17 REPRESENTATIVE BURNAM: Right. So but --

18 REPRESENTATIVE BROWN: -- and assuming
19 they were -- they were citizens and they weren't.

20 REPRESENTATIVE BURNAM: You know, we all
21 learn things at different times, and it's amazing to me
22 how many people in our community are in responsible
23 positions and they don't know that we've changed that.
24 A number of years ago, I think it's been over
25 10 years -- There's a reason why we draw the jury from



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1 the driver's license pool because, frankly, you were
2 having people not registering to vote because they
3 didn't want to risk this responsibility of citizenship.
4 We wanted to be able to capture a larger audience of
5 eligible people serve. Unfortunately, which is -- we
6 had a growing population that has both a driver's
7 license and are not citizens, so it's -- really, isn't
8 it up to the responsibility of the court administrators
9 to distinguish between those who are eligible to serve
10 on a jury and those who simply have a driver's license?

11 REPRESENTATIVE BROWN: What we need is
12 people to have to prove citizenship in order to register
13 to vote, but that's not going to happen immediately.

14 REPRESENTATIVE BURNAM: Okay.

15 REPRESENTATIVE BROWN: I hope that -- this
16 session, but immediately, we could have in our very next
17 election requiring our citizen -- our registered voters
18 when they show up to vote to prove they are who they say
19 they are, and that's not difficult to do.

20 REPRESENTATIVE BURNAM: But the example of
21 the problem that you've offered up is not accurate, am I
22 correct? The problem that you offered up is related to
23 jury pools, not related to people that are going to
24 vote.

25 REPRESENTATIVE BROWN: You may be true --



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1 That may be true.

2 REPRESENTATIVE BURNAM: I believe it is,
3 and what can I say?

4 CHAIRMAN BERMAN: Mr. Burnam, if I may
5 intervene, driver's licenses are controlled by DPS and
6 our voter registration is controlled by counties and the
7 district clerk who actually calls juries, and I still
8 believe that they're called by voter registration card,
9 and I think Mr. King has a comment on it.

10 REPRESENTATIVE KING: Yeah, and it is kind
11 of confusing and Lon is right. About six years ago,
12 they did decide -- six, seven years ago, they did decide
13 that you could use driver's licenses as a jury pool, but
14 it was never deleted that you could also use the
15 registered voter, so most counties draw from both. They
16 will have a registered voters' pool and it's merged with
17 a driver's license pool, and they will draw from both.

18 There was just a Supreme Court special
19 task force that looked -- that looked at this for the
20 state bar. In fact, the ABA has had a recommendation
21 out that you merge as many lists as possible from which
22 to draw so you get a larger jury base, and the -- the
23 Supreme Court just had a task force that has come out
24 and recommended, if I understand it right, full merger
25 votes for every county so that you're drawn from



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1 driver's licenses and from voter registration, but,
2 currently, it is still law that you can draw from both
3 and many, if not most, counties do that.

4 REPRESENTATIVE BROWN: Well, that explains
5 why my county court at law judge -- I know it's been
6 less than two years ago that she shared that story
7 because that increasingly they were seeing these people
8 show up that say I don't know why I was summoned.

9 REPRESENTATIVE KING: And, in fact, in
10 Bexar County in between 2003 and '05, they had 41
11 different instances where people came from jury service
12 and it was identified that they were not a US citizen,
13 but they were a registered voter and that's what had
14 drawn them there. There were 300 -- actually, were 300
15 instances of people being registered that were not yet
16 citizens. 41 of those were discovered at jury duty and
17 from the registered voting, but the voters
18 registration --

19 REPRESENTATIVE BROWN: Well, this is a
20 privilege that should be protected.

21 CHAIRMAN BERMAN: Thank you Chairman King.
22 Any other questions, Chairman Brown? Yes. Mr. Anchia?

23 REPRESENTATIVE ANCHIA: Just a technical
24 question. You said voting is a privilege. Is it not a
25 right?



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1 REPRESENTATIVE BROWN: It is a right.

2 REPRESENTATIVE ANCHIA: Okay.

3 REPRESENTATIVE BROWN: But I also consider
4 it a privilege, absolutely.

5 REPRESENTATIVE ANCHIA: Okay. Thank you.
6 Be.

7 CHAIRMAN BERMAN: Okay. Thank you, Betty.

8 REPRESENTATIVE BROWN: It's a right for a
9 citizen, and it should be for a citizen only.

10 CHAIRMAN BERMAN: Thanks, Betty.

11 REPRESENTATIVE BROWN: Thank you,
12 Mr. Chairman. Thank you.

13 CHAIRMAN BERMAN: The chair lays out House
14 Bill 626 and calls on Chairman King to present the bill.

15 REPRESENTATIVE KING: Thank you. Thank
16 you, Mr. Chairman and members. My bill's probably a lot
17 like Betty's. In September of 2005, the bipartisan
18 Carter/Baker commission on election reform issued a big
19 long report -- I've got a copy of it here -- entitled
20 Building Confidence in Elections, and it made a number
21 of recommendations, and HB626 drives a fork right to
22 those recommendations for Texas. One is to require a
23 confirmation of US citizenship at the time you register
24 to vote and the second is to require a photo ID at the
25 time that you are voting.



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1 I mean, clearly, the fraud of noncitizens
2 participating in our election system flies in the face
3 of both the US constitution and the Texas constitution
4 which reserves that right to vote only to citizens, and,
5 moreover, on election codes, state election code
6 requires you to be a US citizen to vote.

7 In a couple of -- We looked to see for a
8 couple of examples where this was occurring, and I know
9 on June 22nd, 2006 in Harris County, the tax
10 assessor/collector and voter registrar testified before
11 the US House Administration Committee that in 2005 he
12 identified at least 35 foreign nationals who either
13 applied for or -- or received voter registration cards.
14 More concern between 2003 and '05 -- I misstated this a
15 minute ago, and I apologize Mr. Burnam.

16 In Bexar County, 303 people were removed
17 from the voter rolls in Bexar County because they were
18 not US citizens, and before being canceled they found
19 that 41 of those had actually cast ballots in bond
20 elections, runoff primaries and general elections that
21 were not US citizens. Sometimes say, well, but it's
22 such a small number. Does that really make a
23 difference? And, you know, I just draw your memory back
24 to the Talmadge Heflin/Herbert Vo election, which
25 Herbert Vo -- sorry -- a year ago election which was



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1 held here, and we had an election contest that rose all
2 the way to the level of the Texas House. That election
3 was decided by 33 votes initially, and if I remember
4 right, after the house review and dropping down to, I
5 think, 30 votes difference, so every vote counts.

6 Also, Todd Baxter and Kelly White in a --
7 in a primary -- neither one of them are with us, but in
8 a primary there was out of 34,000 votes cast Republican
9 and approximately 34,000 votes Democrats, almost 70,000
10 votes, the election was decided by a mere 147 vote
11 difference.

12 REPRESENTATIVE BURNAM: You meant in a
13 general election?

14 REPRESENTATIVE KING: In a general. I'm
15 sorry. Did I say primary? I'm sorry. I wish primaries
16 would elect it, but, anyhow, 147 votes out of almost
17 70,000, and so every vote does count. We saw on our own
18 last election cycle how most of the races -- how some of
19 the races were.

20 HB626 proposes to require citizenship
21 verification starting on all new registrations that take
22 place after September '07. Verification will be done by
23 submission of either a certified copy of a birth
24 certificate or US passport being submitted with
25 registration application. Currently, the DPS doesn't



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1 check citizenship when issuing a driver's license as
2 Mr. Burnam pointed out, but effective January '08, when
3 the Federal Real ID Act applies to Texas, the DPS will
4 begin verification of citizenship when you get your
5 driver's license and that will in essence require
6 citizenship to register to vote under our motor voter
7 statute already in place, will also provide anyone
8 that's taking registered voters with an automatic way to
9 verify citizenship when they are registering someone,
10 simply check their -- their Texas driver's license which
11 most -- most Texans of voting age have.

12 Additionally, as recommended by the
13 Carter/Baker commission, HB626 would require voters to
14 show a picture ID when they appear to vote and
15 implements it in such a manner that it will avoid the
16 legal challenges that other states have faced in
17 implementing the recommendation. The requirement to
18 show a picture ID under 626 for -- will not require a
19 specific type of ID. I think that IDs are just a part
20 of our society today at all levels for simple
21 transactions. It's prevalent throughout any commerce in
22 our society. For example, you have to show an ID to
23 rent a DVD, to check out a library book or an airplane,
24 buy tobacco. Even to join a retail Sam's Club you have
25 to have some kind of ID that you show, and I think it's



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1 -- and to purchase certain cold medications, now you
2 have got to present a valid ID, and I think it's -- if
3 -- if voting as -- it rises at least to the level of
4 buying a decongestant at the drugstore in terms of
5 determining who someone is.

6 CHAIRMAN BERMAN: I think that was my
7 fault, Chairman King.

8 REPRESENTATIVE KING: I do --

9 CHAIRMAN BERMAN: House Bill 163.

10 REPRESENTATIVE KING: I -- My Drixoral is
11 still a issue, but I forgive you. Our election system
12 cannot inspire public confidence if no safeguards exist
13 to deter or protect fraud or to confirm the identity of
14 voters. Bottom line, this is a recommendation of a
15 bipartisan commission. It incorporate in a manner that
16 is legally defensible. It simply requires proof of
17 citizenship when you register to vote and then -- and
18 simply requires a Voter ID of some type when you come to
19 vote.

20 CHAIRMAN BERMAN: Members, questions?
21 Mr. Bohac?

22 REPRESENTATIVE BOHAC: Phil, I have a
23 question for you. Are you aware that Alabama, Arizona,
24 Colorado, Delaware, Florida, Georgia, Kentucky,
25 Louisiana, Hawaii, Montana, North Dakota and South



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1 Dakota all require proof of identification to vote and
2 that the voter registration card is not considered an
3 acceptable form of ID?

4 REPRESENTATIVE KING: Do tell.

5 REPRESENTATIVE BOHAC: Well, they are. My
6 point is that we would not be -- this is not new
7 ground-breaking land that we're treading on, so I think
8 we'll be joining the company of other states, and, by
9 the way, of the -- of the states I just mentioned, six
10 of them are covered by Section 5 of the voting rights
11 act. So, anyway, I think -- I think Voter ID is a good
12 bill.

13 REPRESENTATIVE KING: I was very concerned
14 about this being legally defensible, and -- and I relied
15 a lot on my chief clerk and general counsel in the
16 regulated industries committee who is formerly the
17 general counsel to the Secretary of State and knows
18 the -- knows the election law backward and forward, and
19 we spent a lot of time under his consultation with --
20 and he actually drafted this bill initially, and, in
21 fact, he probably would be a good expert witness if
22 anybody wanted to call him up here. But -- But I'm
23 convinced it's legally defensible. We've looked at the
24 other places where there have been challenges around the
25 country, and we believe we have -- we have drafted



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1 around those.

2 CHAIRMAN BERMAN: Members, any other
3 questions? Mr. Anchia?

4 REPRESENTATIVE ANCHIA: Mr. -- Mr. --
5 Chairman King. Excuse me. Thank you for bringing this
6 bill to the committee. I noticed one thing that was
7 interesting in your testimony. You said this would only
8 apply to new voter registrations.

9 REPRESENTATIVE KING: Right.

10 REPRESENTATIVE ANCHIA: Can you -- Can you
11 talk about that and just point out to me in the bill
12 where that is?

13 REPRESENTATIVE KING: I'll have to read
14 where it is, but it -- oh, it would be the effective
15 date portrayed here. Okay. I think -- I think the
16 logic works like this. You do not have to present proof
17 of citizenship until you register beginning 2007, so
18 there is no requirements date. Any time anybody
19 registers after September 1st, 2000 -- Sorry it took me
20 a while to get this. Any time anyone registers after
21 September 1st, 2007, when they go to register, they --
22 they are going to have to present a -- a valid proof of
23 citizenship.

24 REPRESENTATIVE ANCHIA: Okay. I -- I
25 thought -- I thought the -- the new voters related to



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1 people being grandfathered in who have, for example,
2 previously --

3 REPRESENTATIVE KING: For example, you'll
4 never have to show unless you've got a reregistered
5 voter -- If you have to register to vote again, you'll
6 have to still prove citizenship.

7 REPRESENTATIVE ANCHIA: But I thought this
8 related to the Voter ID requirement that people who have
9 been previously registered, by the time certain would
10 not have to present Voter ID at a -- at a polling
11 location. That was my understanding of -- of --

12 REPRESENTATIVE KING: If -- Two parts. If
13 you register to vote after September 1st, 2007, you got
14 to show proof of citizenship. Hopefully that will be by
15 simply showing your driver's license under the Real ID
16 Act.

17 REPRESENTATIVE ANCHIA: Right.

18 REPRESENTATIVE KING: When you go to vote,
19 you are going to have to present your voter registration
20 card as we all do, and along with it some form of photo
21 identification.

22 REPRESENTATIVE ANCHIA: Do you have to
23 present both or can you just present a -- a --

24 REPRESENTATIVE KING: Well --

25 REPRESENTATIVE ANCHIA: -- a picture ID?



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1 REPRESENTATIVE KING: You would have to
2 present a picture ID. Now, we all know that if you
3 don't have your Voter ID there, they'll let you show
4 your driver's license today, just some form of photo ID
5 to show who you are, and I'm assuming that was to
6 continue.

7 UNIDENTIFIED SPEAKER: (Inaudible.)

8 REPRESENTATIVE KING: But if -- But if you
9 appear and you have your photo ID, as you always have,
10 you'll be able to vote.

11 REPRESENTATIVE ANCHIA: One of the --

12 REPRESENTATIVE KING: What you are
13 supposed to do is present your voter card registration,
14 and then if you don't have your registration today,
15 they'll check your photo ID.

16 REPRESENTATIVE ANCHIA: Would you be --
17 Would you be amenable to an amendment to the bill that
18 would grandfather people in from having to show a photo
19 identification, for example, people who are used to
20 voting just with their voter registration card for 30,
21 40, 50 years?

22 REPRESENTATIVE KING: No.

23 REPRESENTATIVE ANCHIA: Okay.

24 REPRESENTATIVE KING: I just think that --
25 and I -- And I appreciate the -- where you're coming



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1 from, but I -- a photo ID in 2007, some form of photo
2 ID, is just required for everything. And I think it's a
3 very, very, very small thing to ask if someone wants to
4 exercise the amazing right we have to votes. I just
5 think it's a very small sacrifice to have to get one, if
6 you don't -- if you don't have one, which is rare in and
7 of itself.

8 REPRESENTATIVE ANCHIA: We'll probably
9 hear testimony today that upwards of about 2 million
10 Texans are in a position that they don't have it, but I
11 do appreciate --

12 REPRESENTATIVE KING: Is a fact that is
13 greatly in dispute.

14 REPRESENTATIVE ANCHIA: Okay. Okay. And
15 one final question. One of the things with respect to
16 proving citizenship that is -- it's just difficult. And
17 I like you in trying to balance sort of expansion of the
18 franchise versus integrity of the system. I think
19 that's your goal in doing that in this bill, and in --
20 in requiring people to prove citizenship when they
21 register to vote, I worry that -- that the laundry list
22 of things that you have here, the three things
23 specifically, would make it difficult for people to
24 register. I don't -- I tend to think that people
25 usually don't carry around their passport, their --



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1 their birth certificate or citizenship papers. I would
2 venture to say that that's probably the exception rather
3 than the rule. Do you worry at all about curtailing the
4 franchise?

5 REPRESENTATIVE KING: No. In fact, I
6 had -- you know, I just got went through losing my
7 Social Security card, and I had to go get a birth
8 certificate to -- to even get a Social Security card.
9 And if someone can get a Social Security card and it's
10 required to have a birth certificate, it's not that much
11 more difficult to have one available when you register
12 to vote.

13 REPRESENTATIVE ANCHIA: But you think
14 people carry them around like when they go and get --

15 REPRESENTATIVE KING: No, but, you know --

16 REPRESENTATIVE ANCHIA: -- and -- and get
17 registered to vote at voter registration drives and
18 stuff like that?

19 REPRESENTATIVE KING: No. But, you know,
20 I didn't carry mine around when I had to get a Social
21 Security card, but I needed to go get a Social Security
22 card, so I went and got a birth certificate, which is
23 really easy to get from your county clerk's office now
24 because they just -- you just give them your name and
25 they print it out. It's not a search and find thing,



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1 and, you know, just like I had to go get a birth
2 certificate to -- to get that Social Security card, and
3 I had to get one to get my passport a while back. I've
4 got to go get a -- get a birth certificate to register
5 to vote. It's a minor thing.

6 REPRESENTATIVE ANCHIA: Okay.

7 CHAIRMAN BERMAN: Members, any other
8 questions? Chairman King, thank you.

9 REPRESENTATIVE KING: Thank you, and for
10 better or worse, my Republican women are in town
11 tonight, and I was supposed to be at dinner with them a
12 little while ago, and if you don't mind, I will go ahead
13 and leave and then would you mind closing for me?

14 CHAIRMAN BERMAN: I'll be very happy to do
15 that.

16 REPRESENTATIVE KING: Thank you, Chairman.

17 CHAIRMAN BERMAN: Thank you. Sorry we've
18 kept you this long. The chair calls -- calls up House
19 Bill 101 by Representative Riddle, who's had a very busy
20 day today.

21 REPRESENTATIVE RIDDLE: Thank you,
22 Mr. Chairman and members of the committee, and I think
23 that we've all had a very busy day today. House Bill
24 101, we're talking about Voter ID, and we've got three
25 bills before us, all of which are quite similar.



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1 I would like to start out by saying that
2 I've got a ton of anecdotal stories I'm not going to
3 tell my husband who is chairman of the Ballot Security
4 Committee or the Harris County Republican party for a
5 while, and we do need ballot security. In 1989, the US
6 Supreme Court wrote that, "A state indisputably has
7 compelling interest in preserving the integrity of its
8 election process." This is the basic purpose behind
9 House Bill 101. The attempt to protect every citizen's
10 right to vote. The operative word here is citizen. The
11 other operative here is right. I would also add
12 privilege.

13 Of course, throughout the process it is
14 important to make sure that no one is disenfranchised by
15 the voting process. It may be slightly less convenient,
16 but the power of the vote is worth protecting and it is
17 certainly worth taking 10 minutes to find the proper ID
18 to go before you vote.

19 I would like to add as a daughter of a
20 Marine that there are those who have fought and died and
21 continue to fight and die for our freedom to vote. It
22 would be disrespectful to their courage and to their
23 memory if we allow our ballot box to be compromised, and
24 I don't apologize for the passion that I feel regarding
25 that.



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1 This bill does two things. First, it
2 requires that you must prove citizenship when you
3 register to vote. Ways to prove citizenship, one,
4 provide copy of a birth certificate. Again, not hard to
5 get. US citizenship papers and unexpired US passport
6 issued to the applicant. Second, it says that in order
7 to vote, you must submit one form of photo ID or two
8 forms of non-photo ID. Let me give you a few examples
9 of photo ID. Driver's license, can even be from an out
10 of state if it's valid and unexpired, a military ID,
11 employee ID card that has your picture on it, US
12 certificate that contains the person's photograph,
13 student ID with a picture on it, concealed handgun
14 license and others.

15 The bill also mandates that the DPS issue
16 a free photo ID for those who sign an affidavit saying
17 that they are indigent. If they're registered to vote,
18 are they eligible to be registered to vote. If you
19 don't have your ID, you can still submit a provisional
20 ballot and that ballot will be counted and confirmed if
21 you provide proper ID to register within a 5-day period.

22 Other states have similar laws. 19 states
23 currently have laws requiring either a -- a photo ID or
24 a non-photo ID to vote. Arizona is one of them. Two
25 states, Florida and Indiana, have states mandating only



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1 a photo ID. Georgia and Missouri have both had their ID
2 laws struck down. However, Georgia's was because they
3 charged for their ID and that was an obvious oversight
4 that we here in Texas have corrected. It was considered
5 tantamount to a poll tax. But that is not going to be a
6 situation in any of the these -- three bills which are
7 going before you.

8 Arizona's law was enjoined by the
9 Ninth Circuit Court of Appeals that they issued no
10 finding or reasoning, and as a result, the US Supreme
11 Court -- they headed that ruling. US Supreme Court did
12 not make any final decisions on the issue, but they did
13 seem to indicate that they felt like Arizona's law
14 provided plenty of outs for those who did not have a
15 photo ID and our bill does the same. Our bill is
16 actually patterned after Proposition 200 in Arizona.

17 It also is basically patterned after the
18 bill that our good friend State Representative -- former
19 State Representative Mary Denny presented last session.
20 My bill replicates her bill to a large extent with the
21 various amendments that she accepted to that bill. I
22 feel like that her bill was quite a good one, and I
23 think that it is incumbent on us as elected officials to
24 preserve the integrity of our ballot box, and it would
25 be irresponsible to allow that ballot box to -- to be



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1 compromised in any way. That has everything to do with
2 our freedoms.

3 CHAIRMAN BERMAN: Members, any questions?
4 Mr. Bohac?

5 REPRESENTATIVE BOHAC: Debbie, you know,
6 you were saying it takes about 10 minutes to find the
7 driver's license or whatever. I think the harder part
8 of voting is finding that cotton-picking voter
9 registration card. I think keeping your driver's
10 license handy is the easy part. I don't know about you,
11 but I have to run around the house or rifle through my
12 car looking for that voter registration card. I think
13 we're getting -- we've got this out of whack. I
14 wouldn't mind not even having to present a voter
15 registration card and making the driver's license the
16 voter registration card. I mean, then you wouldn't have
17 to find two forms of things because, really, I don't
18 know of anyone including my parents, especially who know
19 where they keep that voter registration card, but
20 99.9 percent of us know exactly where we keep our
21 driver's license or TDL license.

22 REPRESENTATIVE RIDDLE: I think there's a
23 lot to be said for that. However, there -- with the
24 Real ID -- Federal ID Act that has come in regarding our
25 driver's license, I think that this is going to have a



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1 lot to say in showing proof of citizenship.

2 CHAIRMAN BERMAN: Members, any other
3 questions? Mr. Anchia?

4 REPRESENTATIVE ANCHIA: Thank you, Madam
5 Chair. I had a -- a quick question.

6 REPRESENTATIVE RIDDLE: Thank you for the
7 promotion, but I'm not a chairman.

8 REPRESENTATIVE ANCHIA: Oh, well --

9 REPRESENTATIVE RIDDLE: But I am on
10 appropriations.

11 REPRESENTATIVE ANCHIA: I do -- I do it
12 and I do it because -- because everybody is kind of in a
13 current chair or past chair or something like that, so I
14 err on the side of safety.

15 REPRESENTATIVE RIDDLE: Thank you very
16 much.

17 REPRESENTATIVE ANCHIA: I think I'm the
18 only guy who never had been one or the other, but -- but
19 I had a quick question about the bill. What are
20 citizenship papers? What would qualify?

21 REPRESENTATIVE RIDDLE: Well, if you have
22 acquired citizenship, and I think that there's -- I
23 don't know about me or, Mr. Chairman, if there --

24 CHAIRMAN BERMAN: Birth certificates and
25 naturalizations.



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1 REPRESENTATIVE RIDDLE: Yeah.
2 Immigration, naturalization, I think does give you some
3 type of papers. I've not gone through that, so I
4 don't --

5 REPRESENTATIVE ANCHIA: Do you know what
6 it's called? I mean, because here you have -- you have
7 a birth certificate which qualifies clearly, and you
8 have a passport. I just don't know if --

9 REPRESENTATIVE RIDDLE: Basically --

10 REPRESENTATIVE ANCHIA: -- if citizenship
11 papers had a particular name or anything like that.

12 REPRESENTATIVE RIDDLE: Basically --
13 Basically anything that would give you a passport.

14 REPRESENTATIVE ANCHIA: Okay. Okay. What
15 percentage of people have passports in Texas; do you
16 know?

17 REPRESENTATIVE RIDDLE: I don't know. I
18 would suspect quite a few. Quite a few here in Texas, I
19 would guess.

20 REPRESENTATIVE ANCHIA: The numbers I've
21 seen nationwide are anywhere between 7 to 21 percent of
22 the entire population, and I don't know which one of
23 those two numbers is good. Do you worry at all about
24 restricting the ability of people to -- to register to
25 vote?



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1 REPRESENTATIVE RIDDLE: Absolutely not.

2 REPRESENTATIVE ANCHIA: Okay.

3 REPRESENTATIVE RIDDLE: And let me tell
4 you why if you're interested.

5 REPRESENTATIVE ANCHIA: I am. I am.

6 REPRESENTATIVE RIDDLE: I believe that the
7 right to vote is also a privilege. People have gone to
8 war. They have fought, they have died in order to
9 preserve our freedom and to preserve our right to vote.
10 For us to complain and say that it's a little too
11 inconvenient to do this or it's a little too
12 inconvenient to do that, well, exactly how inconvenient
13 has it been for our men and women who have fought, bled,
14 died and for those that survived come home with massive
15 injuries? Are we going to tell them it's just too
16 inconvenient? I don't think so. And our freedom is too
17 valuable. It is too significant. It is too precious
18 for us to be big old babies and whine and complain about
19 a little bit of inconvenience.

20 As for me, let me tell you, I think that
21 there's no amount of inconvenience that is too much
22 trouble for us to maintain the integrity of our
23 ballot -- of our ballot box because when this ballot box
24 is compromised, then your freedom is compromised and the
25 freedom of my grandchildren, and I'm not going to



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1 sacrifice that.

2 REPRESENTATIVE ANCHIA: I appreciate that.
3 That was a terrific -- That was a terrific analysis, and
4 I totally agree with you that the sacrifice here of our
5 young men and women in -- in active duty and those who
6 have lost lives is important. I also believe that the
7 right to vote is an important right, and I hope -- I
8 hope you didn't think I was whining about inconvenience
9 because that wasn't the -- the purpose of my question.

10 My question was, do you think it will be
11 harder for people to vote when you make it harder for
12 people to prove citizenship? Do you think --

13 REPRESENTATIVE RIDDLE: I think it's going
14 to be harder for noncitizens to vote.

15 REPRESENTATIVE ANCHIA: But do you
16 think -- you think US citizens who need to provide these
17 documents might have a tougher time voting? That really
18 is the essence of my question, and, again, I do respect
19 you very much and I respect our men and women who have
20 served, including the chairman, but I'm just trying to
21 get at a fundamental tension that we have between
22 exercise of the franchise, which as you correctly
23 suggest is a right that we have and that men and women
24 have died for, and that right is very, very precious and
25 what kind of restrictions we place on the exercise of



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1 that franchise for US citizens that want to -- that want
2 to exercise it, and that really --

3 REPRESENTATIVE RIDDLE: Let me share.

4 REPRESENTATIVE ANCHIA: -- that really is
5 the -- the crux of my question.

6 REPRESENTATIVE RIDDLE: Let me share with
7 you -- And your question is a fair question, and I
8 respect you as well, and I certainly didn't mean to
9 imply that you were whining. The -- And especially
10 after you called me madam chairman, I sure don't want to
11 be doing that.

12 REPRESENTATIVE ANCHIA: Madam double
13 chairman, triple chairman.

14 REPRESENTATIVE RIDDLE: Before the rubber
15 hits the road, this is about real people, real freedom,
16 real life, real America. The people in my district --
17 And that's the ones I know the best who are part of our
18 greatest generation, when this discussion -- when they
19 have become a part of this discussion -- and those are
20 our World War II veterans, and my dad passed away, but
21 my dad was one of them. My dad fought on Iwo Jima. If
22 my daddy were here today, he'd probably make mince meat
23 out of anybody that disagreed with him. But the -- But
24 they want to make sure that that ballot is secure. They
25 are also the ones that would likely as not be the most



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1 inconvenienced.

2 So the people who are our greatest
3 generation, those that would be -- would find it the
4 most difficult and be most inconvenienced are the very
5 ones that are adamant about securing our ballot, about
6 having photo ID, about not compromising the integrity of
7 the ballot box and for dead sure making sure that only
8 American citizens are the ones that are casting the
9 vote, and they're the people that I think that we should
10 hold in highest distinct and honor their wisdom, honor
11 their sacrifice and honor the legacy that they have
12 given to us.

13 REPRESENTATIVE ANCHIA: And I appreciate
14 that, madam triple chair. That -- I have constituents
15 who also fought in World War II. My late father-in-law
16 was a tail gunner on a B26. He flew an inordinate
17 number of missions over Italy and Germany. I --

18 REPRESENTATIVE RIDDLE: And tell him thank
19 you from us.

20 REPRESENTATIVE ANCHIA: Well, he's passed
21 away, but, yes, I certainly do hold him in high regard,
22 and I hold the World War II veterans and the Vietnam
23 veterans and the Korean veterans that I -- that I
24 represent in District 103 in very high regard. Many of
25 them have been voting for 40 and 50 years with -- with



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1 their voter registration card, and they've expressed to
2 me concern about this type of -- this type of
3 requirement because many of them don't drive. Many of
4 them don't have utility bills in their name because they
5 live with persons who, for example, may be their
6 siblings. They live in homes. It makes it a little bit
7 more difficult for them, so that's why I'm asking you
8 these questions, and I believe you have sincere --
9 sincere intentions in your bill, and I have sincere
10 intent in trying to articulate some of the concerns of
11 the World War II veterans, the Korean veterans, Vietnam
12 veterans, Desert Storm veterans that I represent. So I
13 appreciate -- I appreciate this dialogue.

14 REPRESENTATIVE RIDDLE: Thank you, and I
15 appreciate the dialogue as well, and I appreciate your
16 concerns.

17 REPRESENTATIVE ANCHIA: Thank you.

18 REPRESENTATIVE RIDDLE: Thank you,
19 Mr. Chair. If there's not any other questions --

20 CHAIRMAN BERMAN: I don't see any.

21 REPRESENTATIVE RIDDLE: -- I will close.

22 CHAIRMAN BERMAN: We'll start calling on
23 our witnesses. Thank you, Chairman Riddle.

24 REPRESENTATIVE RIDDLE: Oh, should I
25 reserve the right to close after the witnesses?



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1 CHAIRMAN BERMAN: I'm going to let you
2 close.

3 REPRESENTATIVE RIDDLE: Thank you.

4 CHAIRMAN BERMAN: You don't have to
5 reserve it with me.

6 REPRESENTATIVE RIDDLE: Thank you.

7 CHAIRMAN BERMAN: I'm going to let you
8 close. All right. The chair calls Russ Duerstine. Is
9 it Duerstine? Duerstine. He is for the bill, all three
10 bills and he will not testify. The chair calls Jodi
11 Park. Jodi, are you here? Jodi is not going to
12 testify. She registers against all three bills. The
13 chairs calls Tina Benkiser. Tina, will you state your
14 name and tell us who you are representing?

15 MS. BENKISER: Yes, sir, I will. My name
16 is Tina Benkiser. I'm here on behalf of myself as an
17 individual and, also, in my capacity as chairman of the
18 Republican party of Texas, which is a volunteer
19 position. Thank you, Mr. Chairman and thank you
20 members. I know that it's been a long day, and I'll try
21 to keep my remarks short. I do appreciate the
22 opportunity to testify.

23 I'm here to talk about election integrity,
24 specifically, safeguarding the people's right to govern
25 themselves. I think America's strength is our people



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1 and their right to choose leaders of their government.
2 I think requiring a photo ID to vote will go a long way
3 in helping ensure fair elections. I know you are
4 considering several bills here that would require a
5 voter to present a photo ID in order to vote, to make
6 sure that the person casting the vote in the voting
7 booth is the same qualified registered voter that's
8 actually listed in the poll book.

9 In this age, there are 40 million
10 Americans who move every year. Here alone in Texas, we
11 have 12.9 million registered voters. Election judges
12 just simply cannot know everyone that comes to the
13 polls, especially in urban areas. So it's just common
14 sense that presenting a photo ID to vote that matches
15 the poll book will better protect voter's rights.

16 What makes no sense is that I'd be
17 required to have a photo ID to rent Animal House at my
18 local video store and, yet, I can present the envelope
19 from -- for my water bill to vote. Isn't voting on who
20 runs our government at least as important as my ability
21 or any citizen's ability to rent a movie?

22 Photo ID legislation really should be a
23 bipartisan slam dunk. One national poll showed that
24 82 percent of all voters, including three of every four
25 Democrats, support using a government issued photo ID at



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1 the polls. In the last primary election, Texas
2 Republicans overwhelmingly passed a ballot initiative of
3 calling for photo ID to vote by 88 percent. Moreover,
4 in a bipartisan commission on Federal election reform
5 co-chaired by former President Jimmy Carter and former
6 Secretary of State James Baker, the third recommended
7 requiring a photo ID to vote, and I think that's
8 probably been put into testimony or evidence by
9 Representative King earlier.

10 So I'll just say that to ensure public
11 confidence in the election process, every qualified
12 citizen must be allowed to vote, and they must be
13 allowed to have their vote counted. Supporting Federal
14 ID legislation is the only responsible thing to do, and
15 I think is indeed necessary to protect liberty and
16 justice for all. Thank you so much.

17 CHAIRMAN BERMAN: Members, questions?
18 Mr. Anchia?

19 REPRESENTATIVE ANCHIA: Ms. Benkiser,
20 thanks again for your testimony. I appreciate you
21 waiting as long. I'll be very, very brief. You just
22 stated and I think very appropriately that every
23 qualified citizen should have the right to vote. I
24 agree with you. I think that's among the most important
25 rights. Again, the intention of my concern is whether



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1 we're restricting the franchise, and, specifically, my
2 concern is about -- is about the voter registration,
3 having to prove you're a citizen to be a registered
4 voter, and you'll probably agree with me that your
5 testimony here today is an important right. I think it
6 forms part of your right to address the government,
7 right? I mean, that is an important right.

8 MS. BENKISER: Absolutely.

9 REPRESENTATIVE ANCHIA: Yeah. In your
10 right to speech. You would also agree that the right to
11 register to vote -- to vote is at least a co-equal right
12 with what you're doing here today, correct? It's at
13 least as important.

14 MS. BENKISER: Absolutely. The right to
15 vote and to self-govern is the underpinning foundation
16 to our American system of government.

17 REPRESENTATIVE ANCHIA: And in order --
18 And the requirement in these bills for registration is
19 that you prove you are a citizen, correct?

20 MS. BENKISER: I believe not only is that
21 a requirement in these bills, but it is indeed a US
22 constitutional requirement that one be a citizen in
23 order to vote.

24 REPRESENTATIVE ANCHIA: And I totally
25 agree with that. I totally agree with that. My concern



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1 is how do you prove it? Can you prove today that you
2 are a citizen?

3 MS. BENKISER: Yes, sir, I can.

4 REPRESENTATIVE ANCHIA: Okay. Do you have
5 your passport with you?

6 MS. BENKISER: Not with me in this room.

7 REPRESENTATIVE ANCHIA: Citizenship
8 papers?

9 MS. BENKISER: I certainly could get it.

10 REPRESENTATIVE ANCHIA: But do you have
11 them right now? If I was going to register you to vote,
12 could you prove that you were a US citizen right now?

13 MS. BENKISER: Mr. Anchia, I appreciate
14 what you're trying to say, but the point is if I were
15 here to register to vote, yes, sir, I could prove that I
16 was a citizen. It wouldn't be very much trouble.

17 REPRESENTATIVE ANCHIA: But if you weren't
18 registered and I was trying to register you now and you
19 weren't registered and this -- and we were voter
20 registrants and you had the opportunity, could you right
21 now prove that you are a citizen?

22 MS. BENKISER: It would depend on what you
23 required from me as proof.

24 REPRESENTATIVE ANCHIA: Under -- Under the
25 bill. Under the bill. Do you have your passport with



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1 you?

2 MS. BENKISER: I do not have my passport
3 with me.

4 REPRESENTATIVE ANCHIA: Do you have
5 citizenship papers with you?

6 MS. BENKISER: No, I don't.

7 REPRESENTATIVE ANCHIA: And do you have, I
8 guess, the third -- what is the third thing in the bill?
9 A -- In order to register to vote, there's a thing in
10 the bill. A birth certificate. Do you have your birth
11 certificate with you?

12 MS. BENKISER: Not with me.

13 REPRESENTATIVE ANCHIA: Okay. Okay.
14 That's -- That's the reason I'm trying to articulate
15 this intention about whether we're really restricting
16 and having a tough time or giving people a tough time in
17 order to register to vote because that -- I agree with
18 you, as you said, it's -- every qualified citizen should
19 have the opportunity to vote, right?

20 MS. BENKISER: Absolutely.

21 REPRESENTATIVE ANCHIA: And -- And I worry
22 that this bill creates a problem, and I appreciate you
23 walking through that exercise with me because I like
24 you -- I mean, look, I don't want voter fraud. I agree
25 with you a hundred percent. The voter fraud that we're



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1 trying to deal with here is kind of a voter
2 impersonation, right? People going to vote say --

3 MS. BENKISER: Absolutely.

4 REPRESENTATIVE ANCHIA: -- that they're --
5 and voter impersonation, I think, is a bad -- is a bad
6 thing.

7 MS. BENKISER: Yes, sir. I think they
8 should go to jail for that, but that's a different
9 matter.

10 REPRESENTATIVE ANCHIA: I agree with you.
11 I agree with you. And if these bills said that if you
12 impersonate a voter, you shall go to jail and this could
13 be a felony. I'm right there with you that I think it
14 is a bipartisan deal. I just worry about restricting
15 people's access and --

16 MS. BENKISER: I do -- and I -- And I
17 certainly appreciate your giving me the opportunity to
18 talk about this because I think at the end of the day,
19 it's about ensuring the integrity of election and
20 keeping the public's confidence that in fact every
21 citizen can -- who is qualified, who is properly
22 registered be allowed to vote and they have their vote
23 counted, and every single instance where that does not
24 happen, it takes away your right and my right to govern
25 ourselves, and I'm sure that you would all agree that's



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1 just not acceptable.

2 REPRESENTATIVE ANCHIA: Thanks for
3 answering my questions. I really appreciate it.

4 MS. BENKISER: Yes, sir.

5 CHAIRMAN BERMAN: Mrs. Benkiser, I have a
6 couple of questions too, if you don't mind.

7 MS. BENKISER: Yes, sir.

8 CHAIRMAN BERMAN: Before earlier tonight,
9 we heard House Bill 265 concerning registration on
10 election -- during early election days. And Mr. Anchia
11 listed a number of items that people should have with
12 them when they do register. He said to have proof of
13 identification with you, you need a Texas driver's
14 license, including a temporary license and utility bill,
15 a Texas driver's license or a temporary license, a US
16 passport, a United States military ID. In fact, these
17 are all in Mr. Anchia's requirements for registration.

18 So if you were going to register and you
19 knew the registration date, could you at all not find
20 any of these documents and prepare to go to register
21 with just about every one of these documents?

22 MS. BENKISER: You're right.

23 REPRESENTATIVE ANCHIA: Mr. Anchia listed
24 all these things as part of registration.

25 MS. BENKISER: Yes, sir. Mr. Chairman, I



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1 believe that's correct.

2 CHAIRMAN BERMAN: Okay. So you can find
3 any of these documents if you need -- if you knew when
4 you had to register.

5 MS. BENKISER: I know where all of those
6 documents are for myself, yes, sir.

7 CHAIRMAN BERMAN: You don't carry a birth
8 certificate with me, do you?

9 MS. BENKISER: No, I don't.

10 CHAIRMAN BERMAN: I don't carry a passport
11 with me until -- unless I'm traveling overseas.

12 MS. BENKISER: Right.

13 CHAIRMAN BERMAN: I don't have any of
14 those documents with me, but if I needed them, I know
15 exactly where to go and get them.

16 MS. BENKISER: Yes, sir.

17 CHAIRMAN BERMAN: And they're very easy to
18 get.

19 MS. BENKISER: Yes, sir.

20 CHAIRMAN BERMAN: Thank you, Chairman
21 Benkiser.

22 MS. BENKISER: You're very welcome. Thank
23 you so much for allowing me to testify.

24 CHAIRMAN BERMAN: The chair calls Luis
25 Figueroa. Is Mr. Figueroa in the room? Oh, I'm sorry.



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1 Just your testimony, Mr. Figueroa, will be on all three
2 bills.

3 MR. FIGUEROA: Okay.

4 CHAIRMAN BERMAN: They're all pretty
5 simple.

6 MR. FIGUEROA: Sure. Thank you very much,
7 Mr. Chairman. My name is Luis Figueroa, and I'm the
8 legislative staff attorney for the Mexican American
9 Legal Defense and Educational Fund, MALDEF, and I just
10 handed to you all a bunch of documents. I apologize. I
11 wasn't sure how we were going to break down the bills,
12 but I handed you some fact sheets on Voter ID on proof
13 of citizenship, the testimony on the proof of
14 citizenship bill, the two proof of citizenship bills and
15 testimony on the Voter ID bill, and I think there are
16 two separate issues so I separated them out. I hope
17 that's acceptable to the committee.

18 We as a -- You, as a committee and state
19 legislators, have a commitment to kind of do a cost
20 benefit analysis of how we can keep the integrity of the
21 vote while maintaining access, and that's really what
22 this issue is all about. How do we maintain access to
23 voting so that every eligible voter has access to be
24 able to vote while at the same time keeping the
25 integrity of the voting system? And I think that the



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1 voter -- And for the reasons that the Voter ID is proof
2 of citizenship swing that pendulum too far in favor of
3 denying access, we oppose all three bills.

4 CHAIRMAN BERMAN: If I might interrupt,
5 Mr. Figueroa. How?

6 MR. FIGUEROA: Sure. The first reason
7 that we have in terms of -- We've got to look at the
8 benefits and the cost. First of all, the benefits on
9 Voter ID Texas already has a Voter ID requirement.
10 Right now under current law, you have to present a voter
11 registration certificate card. One of the things that
12 representative Anchia's bill earlier talked about was
13 same day registration. At that point, you don't have a
14 voter registration card because you haven't registered
15 to vote, which is why you have to present some
16 identification.

17 Under current law, when you go vote, if
18 you don't have a voter registration card, you have to
19 present identification. That is the current law when in
20 the current law we have a voter identification
21 provision. What these bills do is add a multiple voter
22 identification criteria, and the only benefit it solves
23 is a problem of voter impersonation. When we questioned
24 the Attorney General, the Secretary of State, the only
25 type of fraud they talk about is mail fraud or other



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1 types of fraud of stuffing the ballot box. Voter
2 impersonation is a nonissue, and we can't find any
3 credible findings of voter impersonation.

4 CHAIRMAN BERMAN: May I interrupt again?

5 MR. FIGUEROA: Yes, sir.

6 CHAIRMAN BERMAN: Have you talked to the
7 elections clerk in Harris County, Mr. Paul Betancourt?

8 MR. FIGUEROA: I absolutely have. In
9 fact, we had a debate at the Texas -- Conservative
10 Coalition of Texas, and we kind of hammered these issues
11 out, and we talked the discussion, and you know what we
12 talked about was -- and he mentioned what is mentioned
13 before, anecdotal evidence of people in the jury box
14 saying that they were registered to vote and yet weren't
15 citizens, but there wasn't any real proof of a voter
16 intentionally voting or impersonating a voter, I should
17 say. There's a difference between impersonating a voter
18 and voting.

19 And let's talk about what impersonating a
20 voter means. That means I registered to vote with a
21 card -- acquire a voter registration card, but that's
22 not actually who I am, so I'm going as somebody else and
23 taking that voter registration card as a false person
24 and saying I'm Mr. Joe Smith, when, in fact, my real
25 name is Louis Figueroa. This is a very rare occurrence,



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1 and when we hear incidences of dead people voting or
2 stuffing the ballot box, the voter identification
3 provisions don't address that in any way or shape. So
4 we have a -- very little benefit from the voter
5 identification.

6 Let's look at the costs, and these are the
7 costs. There's a big cost on nondrivers. Nondrivers
8 are going to have to acquire a different form of
9 identification. They are going to have to acquire the
10 utility bill, that many people don't know about these
11 requirements when they go vote, and will have to go back
12 home, which pretty much represents an additional
13 barrier. It's an impact on people who newly moved. For
14 instance, I just moved to -- about a mile away from my
15 current -- my current condominium, and when I moved, it
16 took a long time for my driver's license to arrive. So
17 I have an old driver's license with a different address.
18 If someone's identity is stolen, they may not have a --
19 a -- or they recently moved or they got married, their
20 driver's license name and address may not match where
21 they actually live.

22 It has an impact on the election judge.
23 The election judge now has to get training on new
24 identification procedures, what forms are acceptable,
25 which forms aren't. When we saw this in Arizona, it had



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1 a huge impact on the Native American community because
2 they had to travel extreme distances to come to the
3 polls, and most of them only had a travel identification
4 card. If they forgot the travel identification, they
5 had to vote what's called a conditional provisional
6 ballot. It was a very complicated process where they
7 had to come back and set up a provisional ballot
8 process, and it was a very confusing and costly process,
9 not only for the voter, but for the election judge and
10 the election officials.

11 The last challenge is that of MALDEF's
12 specialty is and that's the impact on the constitution
13 and the litigation costs. We identify in the bill as
14 the particular legal objections we have to Voter ID and
15 to date, there have already been successful challenges
16 in Albuquerque. In Arizona, MALDEF is -- is litigating
17 that case right now. Like I said, it went up to the
18 Ninth Circuit. It went up to the Supreme Court. It's
19 currently pending again in the Ninth Circuit, and it's
20 been a very extensive and exhaustive litigation process.
21 In Georgia, it was struck down, and, in fact, the
22 reality is nearly every state has an ID regulation. The
23 question is how onerous is the ID regulation. When
24 Georgia went too far, they struck it down. When New
25 Mexico -- Albuquerque went too far, they struck it down,



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1 and I think these bills that are in Texas are going to
2 also swing the bill as going too far.

3 Now, I also wanted to talk about proof of
4 citizenship to register to vote because we think that is
5 a much more onerous provision in the election process.
6 Again, when we talk about the benefits, we have had no
7 instances of undocumented voting in an election. There
8 have been no instances that the -- that any election
9 official can point to of an undocumented immigrant
10 voting an election. Proof of citizenship, what happened
11 in Arizona in the first month, 79 percent of them were
12 rejected and only a handful of those people reflected
13 foreign born. Mostly, those were naturalized citizens.
14 So the impact on this wasn't on immigrants or on
15 undocumented. The impact was on eligible voters.

16 The fact of the matter is the proof of
17 citizenship requirement is again duplicative of current
18 law. Current law, you have to mark the box and say that
19 you are a US citizen, and if you lie on that, you are
20 committing a felony of perjury. You are exposing
21 yourself to extreme immigration consequences.

22 CHAIRMAN BERMAN: Mr. Figueroa, may I
23 interrupt and ask you a quick question?

24 MR. FIGUEROA: Yes, sir.

25 CHAIRMAN BERMAN: Did you support House



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1 Bill 265?

2 MR. FIGUEROA: Yes, I did.

3 CHAIRMAN BERMAN: It requires proof of
4 citizenship for registration. It requires a lot of
5 different identification.

6 MR. FIGUEROA: That's correct. That's
7 right, it does, and what I was stating earlier is the
8 reason for that is because it is a prime example of our
9 current law. Under current law, you don't have a voter
10 registration certificate. You have to present an ID
11 card. You have to present an additional identification
12 card. If you haven't registered to vote, you don't have
13 that voter registration card. So that is actually
14 pretty much repeat of our current law.

15 CHAIRMAN BERMAN: But isn't that what
16 you're speaking of right now, people who don't have a
17 voter registration card and were going to vote and you
18 are saying it's onerous for them to have to present
19 information saying you are a US citizen?

20 MR. FIGUEROA: No. Actually, what this
21 bill does is for people who are registered to vote and
22 have their voter registration card. So if you register
23 to vote, you've got your voter registration card.
24 You've got yourself to the point place. You still need
25 to present additional identification under this bill.



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1 Under current law, you're good once you have that voter
2 registration card.

3 CHAIRMAN BERMAN: But you have that
4 identification at the time you register. Why can't you
5 use it at the time you vote?

6 MR. FIGUEROA: Why can't you use your
7 voter registration card?

8 CHAIRMAN BERMAN: No, no, not the voter
9 registration. You need identification at the time you
10 register to vote; is that correct?

11 MR. FIGUEROA: Under -- Under current law?

12 CHAIRMAN BERMAN: Under 265.

13 MR. FIGUEROA: Oh, under 265.

14 CHAIRMAN BERMAN: The one you supported
15 before, yeah.

16 MR. FIGUEROA: Under 265, in order to
17 register at the same time, the same day as you register
18 to vote and the same day you vote, yes, you need to
19 present identification.

20 CHAIRMAN BERMAN: To register.

21 MR. FIGUEROA: To register and vote.

22 CHAIRMAN BERMAN: Why can't you use the
23 same identification then to vote?

24 MR. FIGUEROA: The reason for that is
25 because on a same day election card, you don't have your



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1 voter registration card. You have no proof of anything
2 saying who you are. When we go vote at regular
3 places --

4 CHAIRMAN BERMAN: Is the voter --

5 MR. FIGUEROA: -- we have voter --

6 CHAIRMAN BERMAN: Is the voter
7 registration card in your mind an identification card?

8 MR. FIGUEROA: Yes, yes, absolutely. It
9 shows who you are. It has your name. It has your --
10 your -- you know, your precinct. It has a lot of
11 information about you and today that is a sufficient
12 identification for a voter, and at the point we start
13 adding a picture ID or other forms of identification,
14 we're basically asking for multiple identification.

15 CHAIRMAN BERMAN: And you object to
16 someone showing one other document that showed that they
17 are the person on the voter registration card?

18 MR. FIGUEROA: We have.

19 CHAIRMAN BERMAN: Is that what you're
20 saying you object to?

21 MR. FIGUEROA: That's right. That's what
22 we object to, and the reason we object to it because it
23 will affect people who have recently moved whose names
24 don't match. It will affect people whose recent
25 addresses don't match, and it will reflect people who



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1 don't have driver's license, who may be disabled or
2 elderly or for whatever reason don't have a driver's
3 license on them.

4 CHAIRMAN BERMAN: I'm sorry. Mr. Anchia?

5 REPRESENTATIVE ANCHIA: Thank you,
6 Mr. Chairman. Mr. Figueroa, thank you for testifying
7 today. I just want to make sure that we don't go down
8 any rabbit trails indeed. You heard the exchange
9 between the chairman and -- and Chairwoman Benkiser,
10 correct, earlier?

11 MR. DUERSTINE: Yes, sir.

12 CHAIRMAN BERMAN: And the inference was
13 made that HB265 was the same in its requirement as this
14 bill, correct?

15 MR. FIGUEROA: Right.

16 CHAIRMAN BERMAN: That was the inference
17 that was made.

18 MR. FIGUEROA: That was the inference.

19 CHAIRMAN BERMAN: Is it not true that
20 HB265 just states current law with respect to voter
21 registration?

22 MR. FIGUEROA: That's right. I mean,
23 basically what it's saying is you fill out the voter
24 registration card, and in order to -- to identify
25 that -- you have some provisions in there that talk



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